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STATE OF RAJASTHAN AND ORS.

v.

SARDAR PUSHPENDRA SINGH AND ORS.

APRIL 27, 1994

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[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

C

Rajasthan Land Acquisition Act, 1953—Section 4—Acquisition of land—Determination of Compensation—Land owners governed by Land Ceiling Laws—Ceiling proceedings pending in courts—Payment of compensation made subject to decision in ceiling cases—Direction issued to Ceiling Authorities to take immediate action—LAO to work out amount of compensation and make payment expeditiously.

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By a notification issued u/s 4 of the Rajasthan Land Acquisition Act, 1953, land was acquired for defence purposes. While the Land Acquisition Officer determined the amount of compensation payable for the acquired lands, it was observed that the ceiling proceedings were since pending either in the High Court or in the Supreme Court, it was not possible to decide the amounts of compensation payable to the respondents, since the surplus lands were yet to be identified. Some of the areas were in excess of ceiling area under the Rajasthan Tenancy Act, 1955 and the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973. The notification thereunder was published on April 1, 1966 u/s 30-E of 1955 Act. Thereby the surplus land under the Acts stood vested in the State w.e.f. April 1, 1966. But the actual extent of the lands which the respondents were entitled to retain and which they had to surrender as surplus, was pending in the courts. Therefore, the LAO stated in the award that the payment of compensation would be made to such land owners who were not affected by the Ceiling Law prevailing in the State of Rajasthan.

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Challenging this part of Award, the land owners filed writ petitions. Allowing the petitions, High Court held that the Land Acquisition Officer could not have deferred the payment of compensation till the ceiling cases were decided. The LAO was directed to make payment of the amount of compensation determined u/s 11 of the Land Acquisition Act to each of the petitioners who might be entitled for the same under the award.

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These appeals were filed against the judgment of the High Court.

Allowing the appeals, this Court

HELD : 1.1. In the instant case since the land owners were governed by the Ceiling laws and as the ceiling proceedings were pending in the Courts, the LAO while making the award, could not decide to which extent of the land he could make the award for the payment of compensation. He, therefore, stated that such payment would be subject to the decision by the High Court or this court in the ceiling cases. It is informed that this Court had already disposed of the cases of the respondents under ceiling law and so the matter, had to, necessarily go back to the ceiling authorities to determine the excess area which the land owners were liable to surrender after opting to retain the land within ceiling limit for which they would be entitled to obtain payment of compensation under the Land Acquisition Act. Until that was determined, the question of payment of compensation would remain uncertain and in a nabalous state. Considering from this perspective, the High Court was not justified in giving the impugned directions. [783-E-G]

1.2. The Ceiling Authorities are directed to take immediate action under the Ceiling law; give notices to the land owners, calling upon them to exercise their option of retaining the land within the ceiling limit and to surrender the lands in excess of ceiling areas. To the extent of surplus lands, the need to make payment of their market value under the Rajasthan Land Acquisition Act does not arise. The amount payable for such surplus land would be as was perscribed under the Land Ceiling Act. If the ceiling authorities had already done this exercise, then the need to make fresh determination does not arise. [784-A-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos.1760-82 of 1988.

From the Judgment and Order dated 17.9.87 of the Rajasthan High Court in D.B.C.W.P. Nos. 65, 53, 55, 60, 66, 69, 70, 71, 74, 75, 76, 54, 67, 68, 78, 56, 72, 59, 51, 52, 73 & 77 of 1982.

Aruneshwar Gupta for the Appellants.

A.K. Sen, K.B. Rohatgi and Ms. Aparna Rohatgi for the Respondents.

The following Order of the Court was delivered :

A In December 1971, an extent of 2519 Bighas 03 Biswas, equivalent to 1801-1875 acres of land comprised in Chak Nos. 2Z and 3Z, situated in Sriganganagar, State of Rajasthan, it is said, were required for defence purposes. Possession of the said land appears to have been taken thereafter, even without issuance of a formal notification of requisition. However, by a notification issued under s.4 of the Rajasthan Land Acquisition Act, 1953, for short 'the Act' and published in the State Gazette on July 21, 1978, the self-same land has been proposed for acquisition. That has been followed by the declaration made under s.6 thereof on August 23, 1979. While the Land Acquisition Officer (the LAO) determined the amount of compensation payable for the acquired lands, by his Award dated March 31, 1980, observed in para 20 thereof, that the ceiling proceedings were since pending either in the High Court or in this Court, it was not possible to decide the amounts of compensation payable to respondents, in that, what were the surplus lands were yet to be identified. Admittedly some of the areas in Chak Nos. 2Z and 3Z were in excess of ceiling areas under the Rajasthan Tenancy Act, 1955 and the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973. The Act had come into force on January 1, 1973 and the notification thereunder was published on April 1, 1966 under s.30-E of 1955 Act. Thereby the surplus land under the Acts stood vested in the State with effect from April 1, 1966. But the actual extents of the lands which the respondents were entitled to retain and which they had to surrender as surplus, was pending in the courts due to stay orders granted either by the High Court or this Court and the cases could not be settled. It is why, the LAO had stated in para 20 of the award that the payment of compensation would be made to such land owners who are not affected by the Ceiling Law prevailing in the State of Rajasthan.

F Challenging this part of Award in para 20, the land owners filed writ petitions in the High Court. By a common judgment, the division bench of Rajasthan High Court at Jaipur in W.P. No.65/82 and batch, dated September 17, 1987 directed thus:

G "Consequently, we allow all the writ petitions and hold that the Land Acquisition Officer could not have deferred the payment of compensation till the ceiling cases, if any, of any of the petitioners are decided. We direct the Land Acquisition Officer to make payment of the amount of compensation determined under Sec. 11 of the Act to each of the petitioners who may be entitled for

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the same under the award. Because the ceiling cases are pending, we leave it open to the competent authority to make any order in respect of the amount of compensation and for that purpose we make a further order that to enable the State to secure any order from the competent authority against payment to the petitioners, the amount of compensation shall not be paid within a period of two months only."

The present appeals have been filed against the abovequoted direction of the High Court.

It was held by a constitution bench of this court in *Bansidhar & Ors. v. State of Rajasthan & Ors.* [1989] 2 SCR 152, that the effect of operation of s.6 of the Rajasthan General Clauses Act read with s.30-E of the 1955 Act, is that the rights and obligations needed to be determined was with reference to the notified date i.e. 1.4.1966. So the right of the State to take over surplus land arose as on the appointed date, and only the quantification remained to be worked out. The liability of the land owner to surrender the surplus land as on 1.4.1966 was a liability "incurred" within the meaning of the said provision. Accordingly it was held that the determination of the surplus land dates back to 1.4.1966, the date on which the notification was issued, and the surplus land stood vested in the State on and w.e.f. 1.4.1966.

Since the respondents, land owners, are governed by the Ceiling laws and as the ceiling proceedings are pending in the courts, the LAO while making the award, could not decide as to which extent of the land he could make the award for the payment of compensation. He, therefore, stated that such payment would be subject to the decision by the High Court or this court in the ceiling cases. We are informed that this Court had already disposed of the cases of the respondents under the ceiling law and so the matter, has to, necessarily go back to the ceiling authorities to determine the excess area which the land owners are liable to surrender after opting to retain the land within ceiling limit for which they would be entitled to obtain payment of compensation under the Land Acquisition Act. Until that is determined, the question of payment of compensation would remain uncertain and in a nebulous state. Considering from this perspective, we think that the High Court was not justified in giving the impugned directions extracted hereinbefore.

Instead, and on the facts and in the circumstances of this case, the

- A appropriate course to be adopted would be, that a direction should be issued and accordingly issued to the Ceiling Authorities to take immediate action under the Ceiling Law; give notices to the land owners, calling upon them to exercise their option of retaining the land within the ceiling limit and to surrender the lands in excess of ceiling areas. To the extent of surplus lands, the need to make payment of their market value under the
- B Rajasthan Land Acquisition Act does not arise. That the amount payable for such surplus land would be as is prescribed under the Land Ceiling Act. If the ceiling authorities had already done this exercise, then the need to make fresh determination does not arise. In case, it was not done, it should be done within a period of six months from the date of the receipt
- C of this order. This order should be communicated to the ceiling authorities to take expeditious action in this behalf. After this exercise is done, in case it has not already been done, the matter should be reported to the Land Acquisition Officer. The LAO in turn should work out the amount of compensation payable to the owners to the extent of the land within the
- D ceiling area and make payment of compensation under the Act to them expeditiously. In case there is any dispute as to the person who is entitled to receive the compensation, then recourse could be had to s.30 of the Act. In cases where there is no dispute, then the compensation determined under his Award should be paid to the land owners within a period of two months from the date of receipt of the proceedings from the land ceiling
- E authorities.

The appeals are accordingly disposed of. No costs.

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Appeals disposed of.