

A LILAWATI AGARWAL (DEAD) BY LRS AND ORS.

v.

STATE OF JHARKHAND  
(Civil Appeal No. 1363 of 2007)

APRIL 4, 2008

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**[DR. ARIJIT PASAYAT, P. SATHASIVAM, JJ.]**

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*Land Acquisition Act, 1894 – ss.23(1-A), 23(2) and 28 – Claim under – Entitlement – s.4 Notification issued on 21.4.1965 – s.6 Notification issued on 10.11.1966 – Award of collector made on 6.4.1972 – s.30 of Amendment Act, 1984 made operative w.e.f. 24.9.1984 – Reference court decided reference on 30.9.1985 – High Court held that in view of decision in \*Paripoornan case, claimant was not entitled to benefit under ss.23(1-A), 23(2) and 28 – On appeal, Held: Constitution Bench in \*\*Raghubir case fixed two terminus points i.e. Award by Collector or decision of reference court must be made between 30.4.1982 and 24.9.1984 – The three judge Bench in Paripoornan case observed that restrictive interpretation should not be given – Since three judge Bench gave an interpretation contrary to what was stated by Constitution Bench, matter referred to larger Bench to consider correctness of view expressed by three judge Bench – Land Acquisition (Amendment) Act, 1984 – s.30.*

*K.S. Paripoornan v. State of Kerala 1994(5) SCC 593; \*\*Union of India v. Raghubir Singh 1989(2) SCC 754; \*K.S. Paripoornan v. State of Kerala 1995(1) SCC 367 – referred to.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1363 of 2007.

From the Judgment and final Order dated 19/2/2003 of the High Court of Jharkhand at Ranchi in Appeal from Original Decree No. 32 and 33/1986.

WITH

Civil Appeal Nos. 2468, 2469, 2470, and 2471/2008

Himanshu Munshi, Anip Sachthey, Mohit Paul, Gopal Prasad, Anil K. Jha, B.B. Singh and Kumar Rajesh Singh for the appearing parties.

The Judgment of the Court was delivered by

**DR. ARIJIT PASAYAT, J.** 1. Leave granted in SLP(C) Nos. 15653, 15657, 15683 and 20741 of 2004.

2. All these appeals involve identical questions and are therefore, taken up together for disposal. The basic issues involved in these appeals relate to entitlement of the claimants/appellants for benefits under Sections 23(1-A), 23(2) and Section 28 of the Land Acquisition Act, 1894 (in short the 'Act').

3. Factual position is almost undisputed and essentially as follows:

Notification under Section 4(1) of the Act was issued on 21.4.1965, Section 6 notification was issued on 10.11.1966 and the Land Acquisition Collector's Award was made on 6.4.1972. Section 30 of the Land Acquisition (Amendment) Act, 1984 (in short the 'Amendment Act') was introduced and made operative with effect from 24.9.1984.

The reference court decided reference on 30.9.1985, the High Court held that in view of the decision of this Court in *K.S. Paripoornan v. State of Kerala* [1994(5) SCC 593] the appellant was not entitled to the benefit under Section 23(1-A), 23(2) and Section 28 of the Act.

4. Learned counsel for the appellants submitted that the benefit under Section 23(1-A) may not be available in view of what has been stated in *K.S. Paripoornan's* case (hereinafter referred to as 'Paripuranan I') yet in view of the decision of this Court in *Union of India v. Raghubir Singh* [1989(2) SCC 754]

A and in *K. S. Paripoornan v. State of Kerala* [1995(1) SCC 367] (hereinafter referred to as 'Paripoornan II') the benefit under Section 23(2) and Section 28 of the Act are available.

B 5. Learned counsel for the respondent-State and Bharat Coking Coal Ltd. (in short the 'BCCL') the beneficiary for whose benefit the land was acquired submitted that the view in Paripuranan II is not correct as a three judge Bench had taken a view clearly contrary to what has been stated by the Constitution Bench in Raghubir Singh's case (supra).

C 6. By way of reply learned counsel for the appellant submitted that even recently in *Panna Lal Ghosh v. Land Acquisition Collector* [2004(1) SCC 467] this Court has adopted a view taken in *Paripuranan II's* case (supra).

D 7. In order to appreciate the rival submissions it is necessary to take note of what has been stated in Raghuveer Singh's case (supra) which is as follows:

E "31. In construing Section 30(2), it is just as well to be clear that the award made by the Collector referred to here is the award made by the Collector under Section 11 of the parent Act, and the award made by the Court is the award made by the Principal Civil Court of Original Jurisdiction under Section 23 of the parent Act on a reference made to it by the Collector under Section 19 of the parent Act. There can be no doubt that the benefit of the enhanced solatium is intended by Section 30(2) in respect of an award made by the Collector between 30-4-1982 and 24-9-1984. Likewise the benefit of the enhanced solatium is extended by Section 30(2) to the case of an award made by the Court between 30-4-1982 and 24-9-1984, even though it be upon reference from an award made before 30-4-1982.

G 34. Our attention was drawn to the order made in *State of Punjab v. Mohinder Singh* [1986(1) SCC 365], but in the absence of a statement of the reasons which persuaded  
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the learned Judges to take the view they did we find it A  
difficult to endorse that decision. It received the approval  
of the learned Judges who decided *Bhag Singh v Union*  
*Territory of Chandigarh [1985(3) SCC 737]* but the  
judgment in *Bhag Singh's case (supra)* as we have said B  
earlier, has omitted to give due significance to all the  
material provisions of Section 30(2), and consequently  
we find ourselves at variance with it. The learned Judges  
proceeded to apply the principle that an appeal is a C  
continuation of the proceeding initiated before the Court  
by way of reference under Section 18 but, in our opinion,  
the application of a general principle must yield to the  
limiting terms of the statutory provision itself. Learned  
counsel for the respondents has strenuously relied on the  
general principle that the appeal is a rehearing of the D  
original matter, but we are not satisfied that he is on good  
ground in invoking that principle. Learned counsel for the  
respondents points out that the word 'or' has been used  
in Section 30(2) as a disjunctive between the reference to  
the award made by the Collector or the Court and on an  
order passed by the High Court or the Supreme Court in E  
appeal and, he says, properly understood it must mean  
that the period 30-4-1982 to 24-9-1984 is as much  
applicable to the appellate order of the High Court or of  
the Supreme Court as it is to the award made by the  
Collector or the Court. We think that what Parliament F  
intends to say is that the benefit of Section 30(2) will be  
available to an award by the Collector or the Court made  
between the aforesaid two dates or to an appellate order  
of the High Court or of the Supreme Court which arises  
out of an award of the Collector or the Court made between  
the said two dates. The word 'or' is used with reference G  
to the stage at which the proceeding rests at the time  
when the benefit under Section 30(2) is sought to be  
extended. If the proceeding has terminated with the award  
of the Collector or of the Court made between the  
aforesaid two dates, the benefit of Section 30(2) will be H

A applied to such award made between the aforesaid two  
dates. If the proceeding has passed to the stage of appeal  
before the High Court or the Supreme Court, it is at that  
stage when the benefit of Section 30(2) will be applied.  
But in every case, the award of the Collector or of the  
B Court must have been made between 30-4-1982 and 24-  
9-1984. (underlined for emphasis)

8. In *Raghubir Singh's* case (supra) two terminus points  
were fixed i.e. Award by the Collector or decision of the reference  
Court must have been taken between 30.4.1982 and 24.9.1984.  
C it has been clearly stated in the last line of para 34 that every  
case "must" have been decided between the aforesaid terminus.  
In *Paripuranan II's* case (supra) at para 4 it was observed that  
restrictive interpretation should not be given. With great respect  
we are unable to subscribe to the view. As a matter of fact a  
D three judge Bench was trying to give an interpretation different  
from what was specifically given by the Constitution Bench.

9. Therefore, we think it appropriate to refer the matter to  
a larger bench to consider correctness of the view expressed  
in para 4 in *Paripuranan II's* case (supra) holding that a restricted  
E interpretation should not be given, on the face of what has been  
stated in para 34 of *Raghuveer Singh's* case (supra). Records  
may be placed before the Hon'ble Chief Justice of India for  
necessary orders.

F D.G. Referred to larger Bench.