

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6971/2021
(@Petition for Special Leave to Appeal (C) No.6066/2020)

ZOSIAMI & ORS.

APPELLANT(S)

VERSUS

THE DISTRICT COLLECTOR CUM DEPUTY COMMISSIONER RESPONDENT(S)
& ORS.

O R D E R

The Court is convened through Video Conferencing.

Leave granted.

We have heard Mr. Abir Phukan, learned counsel appearing for the appellants, Mr. Vikramjit Banerjee, learned Additional Solicitor General appearing for Respondent Nos.2 and 4, Mr. Siddhesh Kotwal, learned counsel appearing for Respondent Nos.1 and 3, at a considerable length and perused the material available on record.

The present appeal arises out of the judgment and order dated 6-11-2019 passed by the Division Bench of the Gauhati High Court, Aizawl Bench in Writ Appeal No.2 of 2018 dismissing the Writ Appeal filed by the appellants.

The aforesaid Writ Appeal arose out of the judgment and order dated 15-5-2017 passed by the Single Judge of High Court in Writ Petition (Civil) No.153 of 2016.

It is not in dispute that the lands' of the appellants were acquired for construction of New Railway Line project (Bairabi - Sairang).

The Reference Court in Land Acquisition case No.31 of 2013 had directed that the amount awarded by the Court shall carry interest @ 9% per annum as per Section 28 of the Land and Acquisition Act, 1894. The judgment and order dated 27-8-2014 in Land Acquisition Case No.31 of 2013 was upheld by the High Court in Regular First Appeal No.24 of 2014. The appellants had encashed the compensation under protest, without filing an appeal/review against the judgment and order dated 27-8-2014 passed in Land Acquisition Case No.31 of 2013.

The grievance of the appellants in this appeal is that they have not been granted interest @ 15% per annum for the subsequent years and had approached the High Court by way of filing a Writ Petition raising the grievance.

The Single Judge of the High Court, with regard to the question as to whether the appellants were entitled to be given interest @ 15% p.a. for subsequent years, held that the appellants cannot now make a challenge on the quantum of interest given by the Court as per Section 28 of the said Act, in view of the fact that the appellants did not

challenge the judgment and order dated 27-8-2014 passed in Land Acquisition Case No.31 of 2013 and the judgment and order dated 18-6-2015 passed in R.F.A. No.24 of 2014 by which 9% interest per annum was awarded as per Section 28 of the Land Acquisition Act, 1984 and the same has attained finality.

Being aggrieved by the denial of the interest by the Single Judge of High Court, the appellants approached the Division Bench of the High Court by way of a Writ Appeal, which came to be dismissed on 6-11-2019 by the impugned Order, only on the ground that the relief claimed by the appellants before the Division Bench was raised for the first time in the appeal and, therefore, it could not have been granted.

After perusing the material available on record, we find that the reasoning given by the Division Bench of the High Court for dismissal of the Writ Petition is erroneous.

It is relevant to note the prayer made in the petition before the Single Judge of the High Court, which is extracted below :-

"In the premises, it is most humbly prayed that your Lordships may graciously be pleaded to admit the petition, call for the records and issue rule calling upon the respondents to show cause as to why the impugned Letter Memo No.F.14011/189/2008-DC(A)/216-218 dt. 5/7/16 issued by the Respondent No.1 shall not be

set aside and quashed in so far as it calculates interest at the rate of 9% p.a with effect from 6/7/12 to 31/5/16 only and it excludes 30% solatium and 12% interest as provided by Section 23 (1A) & (2) of the Land Acquisition Act, 1894 and after hearing the parties be further pleased to make the rule absolute by directing the Respondent Nos. 1 and 2 to reassess the award by including solatium and interest as provided by Section 23 (1A) & (2) of the Land Acquisition Act, 1894 and to calculate interest as per Section 28 of the Land Acquisition Act, 1894 at the rate of 9% p.a on the enhanced compensation for one year and thereafter at the rate of 15% p.a till date of deposit and to pass any other order(s) as your Lordships may deem fit and proper."

It would, thus, be seen from the above that the appellants had specifically made the prayer before the Single Judge of the High Court with regard to payment of interest on solatium which was rejected by the said Court.

The appellants were aggrieved by the denial of the interest at the rate of 15% p.a. by the Single Judge and, therefore, they had filed appeal before the Division Bench.

We are of the considered view that the reasoning given by the Division Bench of the High Court that the appellants raised claim/relief for the first time before the Appellate Court, is not consistent with the record.

In view of the above, the impugned Order passed by the Division Bench of the High Court is not sustainable and deserves to be quashed and set aside.

Accordingly, we quash and set aside the impugned Order of the High Court, and the appeal is remitted to the Division Bench for consideration of the matter afresh.

Before parting with this matter, we make it clear that we have not considered the rival contentions advanced by the learned counsel on behalf of the parties on merits and the parties would be at liberty to raise all contentions available to them in accordance with law before the High Court.

Taking into consideration the fact that the acquisition proceedings pertained to the year 2011, the High Court is requested to decide the appeal on its own merits as expeditiously as possible.

The appeal is disposed of in the afore-stated terms.

.....J
(B.R. GAVAI)

.....J
(SURYA KANT)

NEW DELHI;
22ND NOVEMBER, 2021.

ITEM NO.21

Court 17 (Video Conferencing)

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No.6066/2020

(Arising out of impugned final judgment and order dated 06-11-2019 in WA No. 2/2018 passed by the Aizawl Bench of Gauhati High Court)

ZOSIAMI & ORS.**Petitioner(s)****VERSUS**

THE DISTRICT COLLECTOR CUM DEPUTY COMMISSIONER Respondent(s)
& ORS.

Date : 22-11-2021 This petition was called on for hearing today.

CORAM :**HON'BLE MR. JUSTICE B.R. GAVAI****HON'BLE MR. JUSTICE SURYA KANT****For Petitioner(s)****Mr. Abir Phukan, Adv.****Mr. V. Shyamohan, Adv.****Mr. Surya Prakash, Adv.****Mr. Ashkrit Tiwari, Adv.****For M/s.Kmnp Law Aor, AOR****For Respondent(s)****Mr. Siddhesh Kotwal, Adv.****Ms. Ana Upadhyay, Adv.****Ms. Manya Hasija, Adv.****Ms. Pragya Barsaiyan, Adv.****Mr. Akash Singh, Adv.****Mr. Nirnimesh Dube, AOR****Mr. Vikramjit Banjerjee, ASG****Mr. P.V. Yogeswaran, Adv.****Mr. Nachiketa Joshi, Adv.****Mr. S.K. Tyagi, Adv.****Ms. Reena Pandey, Adv.****Mr. Amrish Kumar, Adv.****Mr. Raj Bahadur Yadav, AOR**

**UPON hearing the counsel the Court made the following
O R D E R**

The Court is convened through Video Conferencing.

Leave granted.

Appeal is disposed of in terms of the signed Order.

**(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS**

**(RAM SUBHAG SINGH)
COURT MASTER (NSH)**

(Signed Order is placed on the file)