

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s) . 3382-3383 OF 2011

PUNJAB STATE ELECTRICITY BOARD

Appellant(s)

VERSUS

GURDEV KAUR . & ORS.

Respondent(s)

WITH

CIVIL APPEAL No(s) . 3413-3414 OF 2011

WITH

CIVIL APPEAL No(s) . 3426-3442 OF 2011

WITH

CIVIL APPEAL No(s) . 3443-3444 OF 2011

O R D E R

Heard.

IN CIVIL APPEAL No(s) . 3426-3442 OF 2011

We find no ground to interfere with the impugned order passed by the High Court.

Consequently, the appeal is dismissed. No order as to costs.

In all other matters

The only question raised by the learned counsel appearing on behalf of the appellant is that the enhanced solatium as per the Land Acquisition (Amendment) Act, 1984 would not be attracted in a

case where the reference court has already passed the award in the year 1981 and reference was not pending. He has relied upon the decision in K.S. Paripoornan vs. State of Kerala & Ors. [(1994) 5 SCC 593] which has been followed by this court again in Ghaziabad Development Authority vs. Anoop Singh & Anr. [2003(2) SCC 484] in which the K.S. Paripoornan's case has been accepted. Following are the relevant portion of Ghaziabad Development Authority's case are extracted hereinbelow:

"11. The next aspect which needs to be considered is whether the benefit under Section 23(1A) could be extended to the claimants. Sub-Section (1A) of Section 23, inserted by Act 68 of 1984 and made effective from 24.9.1984 provides for payment of an amount calculated at the rate of 12% per annum of the market value for the period commencing on and from the date of publication of the notification under Section 4(1) till the date of the award of the Collector or the date of taking possession of the land whichever is earlier. This amount is in addition to the market value of the land acquired. The question of applicability of Section 23(1A) to the pending proceedings came up for consideration before another Constitution Bench in K.S. Paripoornan Vs. State of Kerala & Ors. [(1994) 5 SCC 593]. Agarwal, J. speaking for the majority, observed thus:

" If sub-Section (1-A) of Section 23 is construed in the light of the provisions contained in sub-Section (1) of Section 30 of

the amending Act there is no escape from the conclusion that Section 23(1-A), by itself, has no application to proceedings which had commenced prior to the enactment of the amending Act and the applicability of the said provision to pending proceedings is governed exclusively by sub-Section (1) of Section 30 of the amending Act."

12. In paragraph 75, the legal position was succinctly stated as follows:

"75. Merely because sub-Section (1) of Section 30 only refers to award made by the Collector while sub-Section (2) of Section 30 also refers to an award made by the Court as well as the order passed by the High Court or the Supreme Court in appeal against such award does not mean that Section 23(1-A) was intended to have application to all proceedings which were pending before the civil Court on the date of the commencement of the amending Act. The difference in the phraseology in sub-Sections (1) and (2) of Section 30 only indicates the limited nature of the retrospectivity that has been given to provisions contained in Section 23(1-A) under Section 30(1) as compared to that given to the provisions of Sections 23(2) and 28 under Section 30(2). The limited scope of the retrospectivity that has been conferred in respect of Section 23(1-A) under sub-Section (1) of Section 30 does not lend support to the contention that the scope of such retrospectivity should be enlarged by reading such further retrospectivity into the provisions of Section 23(1-A). For the reasons aforementioned we are of the view that in relation to proceedings which were initiated prior to the date of the commencement of the amending Act Section 23(1-A) would be applicable only to those cases which fall within the ambit of clauses (a) and (b) of sub-Section (1) of Section 30 of the amending Act.

xxx xxx xxx xxx

There is, therefore, no scope for extending the ambit of retrospective operation of sub-Section (1-A) of Section 23 beyond the limits specified in Section 30(1) of the amending Act so as to apply it to all proceedings initiated prior to the date of coming into force of the amending Act which were pending before the Civil Court on reference under Section 18 of the principal Act irrespective of the date on which the award was made by the Collector. For the reasons aforementioned we are unable to subscribe to the view taken in Union of India Vs. Zora Singh [(1992) 1 SCC 673] that sub-Section (1-A) of Section 23 would apply to all proceedings pending in the reference Court on the date of commencement of the amending Act irrespective of the date on which award was made by the Collector. In our opinion, the provisions of Section 23(1-A) of the principal Act and Section 30(1) of the amending Act have been correctly construed in Union of India Vs. Filip Tiago [(1990) 1 SCC 277] to mean that the obligation to pay additional amount in respect of proceedings initiated before the date of commencement of the amending Act is confined to the matters covered by clauses (a) and (b) of sub-Section (1) of Section 30 of the amending Act and we endorse the said view."

13. In the light of this ruling, the respondents are not entitled to the benefit of additional amount under Section 23(1-A) as the case does not fall within the ambit of either Clause (a) or Clause (b) of sub-Section (1) of Section 30 of the amending Act.

To this extent, the judgment of the High Court which was rendered prior to the decision in Paripoornan's case (supra) cannot be sustained."

In view of the aforesaid, as reference court has passed the award on 13.2.1981 and the reference was not pending thus the enhanced solatium as per the amended provision would not come into play. Accordingly the order of the High Court is modified.

Appeals are allowed to the aforesaid extent.

.....J.  
(ARUN MISHRA)

.....J.  
(MOHAN M. SHANTANAGOUDAR)

NEW DELHI;

JULY 13, 2017

ITEM NO.106

COURT NO.11

SECTION IV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 3382-3383/2011

PUNJAB STATE ELECTRICITY BOARD

Appellant(s)

VERSUS

GURDEV KAUR &amp; ORS.

Respondent(s)

WITH

C.A. No. 3426-3442/2011 (IV)

C.A. No. 3443-3444/2011 (IV)

C.A. No. 3413-3414/2011 (IV)

Date : 13-07-2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Appellant(s) Mr. Kuldip Singh, AOR

For Respondent(s) Mr. Gaurav Gupta, Adv.

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

IN CIVIL APPEAL No(s). 3426-3442 OF 2011

The appeal is dismissed. No order as to costs.

In all other matters

Appeals are allowed to the extent indicated in  
the signed order.

(NEELAM GULATI)  
COURT MASTER (SH)

(TAPAN KUMAR CHAKRABORTY)  
BRANCH OFFICER

(signed order is placed on the file)