

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

Petition(s) for Special Leave to Appeal (Civil) No(s).2373/2005

(From the judgement and order dated 23/03/2004 in FA No.532/1990 of The
HIGH COURT OF JUDICATURE AT ALLAHABAD)

U.P. AVAS EVAM VIKAS PARISHAD

Petitioner(s)

VERSUS

BHOOPAN(DEAD) THROUGH L.R.S. & ANR.

Respondent(s)

(With appln(s) for permission to file additional documents and with prayer
for interim relief and office report)

WITH SLP(C) NO. 2374 of 2005

SLP(C) NO. 2375 of 2005

SLP(C) NO. 2376 of 2005

SLP(C) NO. 2377 of 2005

SLP(C) NO. 2378 of 2005

SLP(C) NO. 2379 of 2005

SLP(C) NO. 2380 of 2005

SLP(C) NO. 2381 of 2005

SLP(C) NO. 2382 of 2005

SLP(C) NO. 2384 of 2005

SLP(C) NO. 2385 of 2005

SLP(C) NO. 2386 of 2005

SLP(C) NO. 2387 of 2005

SLP(C) NO. 2388 of 2005

SLP(C) NO. 2389 of 2005

SLP(C) NO. 2390 of 2005

SLP(C) NO. 2391 of 2005

SLP(C) NO. 2392 of 2005

SLP(C) NO. 2393 of 2005

SLP(C) NO. 2394 of 2005

SLP(C) NO. 2396 of 2005

(With appln.(s) for filing addl.ground of appeal)

SLP(C) NO. 2397 of 2005

(With appln.(s) for exemption from filing O.T.)

SLP(C) NO. 2398 of 2005

SLP(C) NO. 2399 of 2005

SLP(C) NO. 2400 of 2005

SLP(C) NO. 2401 of 2005

SLP(C) NO. 2404 of 2005

SLP(C) NO. 2405 of 2005

SLP(C) NO. 2406 of 2005

SLP(C) NO. 2407 of 2005

SLP(C) NO. 2408 of 2005

SLP(C) NO. 2409 of 2005

SLP(C) NO. 2410 of 2005

SLP(C) NO. 2412 of 2005

SLP(C) NO. 2415 of 2005

SLP(C) NO. 2416 of 2005

SLP(C) NO. 2417 of 2005

SLP(C) NO. 2418 of 2005

SLP(C) NO. 2422 of 2005

SLP(C) NO. 2423 of 2005

SLP(C) NO. 2424 of 2005

SLP(C) NO. 2425 of 2005

SLP(C) NO. 2426 of 2005

(With appln.(s) for exemption from filing O.T.)

SLP(C) NO. 2427 of 2005

SLP(C) NO. 2432 of 2005

SLP(C) NO. 2433 of 2005

SLP(C) NO. 2434 of 2005

SLP(C) NO. 2435 of 2005

SLP(C) NO. 2436 of 2005

SLP(C) NO. 2437 of 2005

SLP(C) NO. 2438 of 2005

SLP(C) NO. 2442 of 2005

SLP(C) NO. 2440 of 2005

SLP(C) NO. 2439 of 2005

SLP(C) NO. 2443 of 2005

(With appln.(s) for exemption from filing O.T.)

SLP(C) NO. 2444 of 2005

SLP(C) NO. 2445 of 2005

SLP(C) NO. 2446 of 2005

(With appln.(s) for substitution and c/delay in filing substitution appln.)

SLP(C) NO. 2447 of 2005

SLP(C) NO. 2448 of 2005

SLP(C) NO. 2451 of 2005

SLP(C) NO. 2452 of 2005

SLP(C) NO. 2453 of 2005

SLP(C) NO. 2454 of 2005

SLP(C) NO. 2455 of 2005

SLP(C) NO. 2456 of 2005

SLP(C) NO. 2457 of 2005

(With appln.(s) for substitution and c/delay in filing substitution appln.)

SLP(C) NO. 2458 of 2005

SLP(C) NO. 2460 of 2005

SLP(C) NO. 2459 of 2005

SLP(C) NO. 2461 of 2005

SLP(C) NO. 2462 of 2005

SLP(C) NO. 2463 of 2005

SLP(C) NO. 2464 of 2005

SLP(C) NO. 2465 of 2005

SLP(C) NO. 2466 of 2005

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SLP(C) NO. 2470 of 2005

SLP(C) NO. 2471 of 2005

SLP(C) NO. 2472 of 2005

SLP(C) NO. 2473 of 2005

SLP(C) NO. 2474 of 2005

SLP(C) NO. 2475 of 2005

SLP(C) NO. 2476 of 2005

SLP(C) NO. 2477 of 2005

SLP(C) NO. 2478 of 2005

SLP(C) NO. 2479 of 2005

SLP(C) NO. 2480 of 2005

SLP(C) NO. 2481 of 2005

SLP(C) NO. 2482 of 2005

SLP(C) NO. 2483 of 2005

SLP(C) NO. 2484 of 2005
(With appln.(s) for exemption from filing O.T.)

SLP(C) NO. 2485 of 2005

SLP(C) NO. 2486 of 2005

SLP(C) NO. 2487 of 2005

SLP(C) NO. 2488 of 2005

SLP(C) NO. 2489 of 2005

SLP(C) NO. 2490 of 2005

SLP(C) NO. 4341 of 2005
(With prayer for interim relief and office report)

SLP(C) NO. 4342-4355 of 2005
(With prayer for interim relief and office report)

SLP(C) NO. 4356 of 2005
(With prayer for interim relief and office report)

SLP(C) NO. 4357 of 2005
(With prayer for interim relief and office report)

SLP(C) NO. 4358 of 2005
(With appln.(s) for substitution and c/delay in filing substitution appln.
and with prayer for interim relief and office report)

SLP(C)No.3317/2007
(With office report)

Date: 02/11/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr.Rakesh Dwivedi, Sr.Adv.
Mr.Kailash Vasdev, Sr.Adv.
Mr. Vishwajit Singh, Adv.
Mr.Pankaj Singh, Adv.
Mr.Nikhil Sharma, Adv.
Mr.Abhindra Maheshwari, Adv.
Mr.Umrao Singh, Adv.

Mr. P.K. Jain, Adv.

For Respondent(s) Mr.Manish Pitale, Adv.
(IN SLP(C)3317/07) Mr.Sunil Kumar, Adv.
Mr. Chander Shekhar Ashri, Adv.

Mr.Ajit Sharma, Adv.
Mr.Sandeep Singh, Adv.

Mr.Mukesh Sharma, Adv.
Mr. Rameshwar Prasad Goyal, Adv.

Mr. Vishwa Pal Singh, Adv.

Mr. Jatin Zaveri, Adv.

UPON hearing counsel the Court made the following

O R D E R

SLP(C)No.2373/2005, SLP(C)No.2374 of 2005 SLP(C) NO. 2375 of 2005, SLP(C) NO. 2376 of 2005, SLP(C) NO. 2377 of 2005, SLP(C) NO. 2378 of 2005, SLP(C) NO. 2379 of 2005, SLP(C) NO. 2380 of 2005, SLP(C) NO. 2381 of 2005, SLP(C) NO. 2382 of 2005, SLP(C) NO. 2384 of 2005, SLP(C) NO. 2385 of 2005, SLP(C) NO. 2386 of 2005, SLP(C) NO. 2387 of 2005, SLP(C) NO. 2388 of 2005, SLP(C) NO. 2389 of 2005, SLP(C) NO. 2390 of 2005, SLP(C) NO. 2391 of 2005, SLP(C) NO. 2392 of 2005, SLP(C) NO. 2393 of 2005, SLP(C) NO. 2394 of 2005, SLP(C) NO. 2396 of 2005, SLP(C) NO. 2397 of 2005, SLP(C) NO. 2398 of 2005, SLP(C) NO. 2399 of 2005, SLP(C) NO. 2400 of 2005, SLP(C) NO. 2401 of 2005, SLP(C) NO. 2404 of 2005, SLP(C) NO. 2405 of 2005, SLP(C) NO. 2406 of 2005, SLP(C) NO. 2407 of 2005, SLP(C) NO. 2408 of 2005, SLP(C) NO. 2409 of 2005, SLP(C) NO. 2410 of 2005, SLP(C) NO. 2412 of 2005, SLP(C) NO. 2415 of 2005, SLP(C) NO. 2416 of 2005, SLP(C) NO. 2417 of 2005, SLP(C) NO. 2418 of 2005, SLP(C) NO. 2422 of 2005, SLP(C) NO. 2423 of 2005 SLP(C) NO. 2424 of 2005, SLP(C) NO. 2425 of 2005, SLP(C) NO. 2426 of 2005, SLP(C) NO. 2427 of 2005, SLP(C) NO. 2432 of 2005, SLP(C) NO. 2433 of 2005, SLP(C) NO. 2434 of 2005, SLP(C) NO. 2435 of 2005, SLP(C) NO. 2436 of 2005, SLP(C) NO. 2437 of 2005, SLP(C) NO. 2438 of 2005, SLP(C) NO. 2442 of 2005, SLP(C) NO. 2440 of 2005, SLP(C) NO. 2439 of 2005, SLP(C) NO. 2443 of 2005, SLP(C) NO. 2444 of 2005, SLP(C) NO. 2445 of 2005, SLP(C) NO. 2446 of 2005, SLP(C) NO. 2447 of 2005, SLP(C) NO. 2448 of 2005, SLP(C) NO. 2451 of 2005, SLP(C) NO. 2452 of 2005, SLP(C) NO. 2453 of 2005, SLP(C) NO. 2454 of 2005, SLP(C) NO. 2455 of 2005, SLP(C) NO. 2456 of 2005, SLP(C) NO. 2457 of 2005, SLP(C) NO. 2458 of 2005, SLP(C) NO. 2460 of 2005, SLP(C) NO. 2459 of 2005, SLP(C) NO. 2461 of 2005, SLP(C) NO. 2462 of 2005, SLP(C) NO. 2463 of 2005, SLP(C) NO. 2464 of 2005, SLP(C) NO. 2465 of 2005, SLP(C) NO. 2466 of 2005, SLP(C) NO. 2467 of 2005, SLP(C) NO. 2468 of 2005, SLP(C) NO. 2469 of 2005, SLP(C) NO. 2470 of 2005, SLP(C) NO. 2471 of 2005, SLP(C) NO. 2472 of 2005, SLP(C) NO. 2473 of 2005, SLP(C) NO. 2474 of 2005, SLP(C) NO. 2475 of 2005, SLP(C) NO. 2476 of 2005, SLP(C) NO. 2477 of 2005, SLP(C) NO. 2478 of 2005, SLP(C) NO. 2479 of 2005, SLP(C) NO. 2480 of 2005, SLP(C) NO. 2481 of 2005, SLP(C) NO. 2482 of 2005, SLP(C) NO. 2483 of 2005, SLP(C) NO. 2484 of 2005, SLP(C) NO. 2485 of 2005, SLP(C) NO. 2486 of 2005, SLP(C) NO. 2487 of 2005, SLP(C) NO. 2488 of 2005, SLP(C) NO. 2489 of 2005, SLP(C) NO. 2490 of 2005, SLP(C) NO. 4341 of 2005, SLP(C) NO. 4356 of 2005, SLP(C) NO. 4357 of 2005 and SLP(C) NO. 4358 of 2005

The delay in filing the applications for bringing on record the legal representatives of the deceased respondents in SLP (C) Nos.2440/2005, 2446/2005, 2457/2005 and 4358/2005 is condoned and the legal representatives of the deceased respondents in those cases are allowed to be brought on record.

These petitions are directed against judgment dated 23.03.2004 of the Division Bench of the Allahabad High Court whereby the appeals filed by the petitioner under Section 54 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') questioning the judgment of IVth Additional District Judge, Meerut (for short, 'the Reference Court') in LAR No.79/1988 and connected matters were dismissed.

For the purpose of implementing Housing Scheme No.6, Meerut, the Competent Authority acquired 453 acres 19 bighas land situated in villages Sarai Quazi, Gaisapurdatawali and Aurangshahpur Diggi. Notifications under Sections 28 and 32 of the U.P. Avas Evam Vikas Parishad Adhiniyam, 1965 were issued on 14.3.1970 and 15.11.1975. The Special Land Acquisition Officer (SLAO) passed award dated 18.9.1986 whereby he fixed market value of the acquired land at the rate of Rs.11.11 per sq. yard.

The respondents did not feel satisfied and sought reference under Section 18 of the 1894 Act. After considering the rival pleadings and evidence, the Reference Court held that the respondents are entitled to compensation at the rate of Rs.26.25 per sq. yard. For arriving at this conclusion, the Reference Court relied upon the award passed in the matter of acquisition of land for Housing Scheme No.7 at Meerut.

The petitioner challenged the judgment of the Reference Court by filing appeals under Section 54 of the 1894 Act. The Division Bench of the High Court briefly adverted to the evidence produced by the parties and observed:

"With reference to Sajara plan of village, Aurangshahpur Diggi, the Parishad submitted that it is note worthy that only 48 bigha land situated in Kasba Meerut was involved in the award whereas

in the present case only one plot of 2 bigha is the subject matter of Kasba Meerut and as such the considerations made in the award while the land situated in Meerut can in no way form basis of computing the market value of land situated in village Aurangshahpur Diggi.

It is interesting to note that notification under Section 28 of the Adhiniyam with respect to Scheme No. 7 is dated 9.5.1970 whereas the notification in the case of present Scheme No.6 is dated 14th March, 1970. The fact that notifications are in close proximity i.e. with a gap of hardly seven weeks, go to show that there cannot be much of difference in the market rate of land comprised in Housing Scheme No.6 vis-a-vis Housing Scheme No.7 if the tracts of lands in questions both situated near Meerut Garh Mukteshwar road have similar potentialities. The Parishad has failed to show anything from its pleadings or evidence which may be worthy of persuading us to come to the conclusion that there is any difference in their potentialities.

It is also admitted by learned counsel for the appellant that sale deed dated 22.8.1969 (paper No.29 Ga) was not admissible since original of it was not filed and only photocopy was brought on record. Similarly other sale deeds dated 2.2.1970 and 28.8.1969 (paper No.30 Ga and 31 Ga) could not form basis for ascertaining market value of the land in question as those sale deeds related to very small piece of land i.e. 200 sq yards and 2265 sq. yards only. Moreover sale deed of 28.8.1969 for 2265 sq yard depicts market value at the rate of Rs.10/- per sq. yard whereas sale deed of 28.8.1969 for 200 sq. yards depicts market value at the rate of Rs.6.50 per sq. yard. Normally market value with respect to the sale deed of 2.2.1970 should have been higher than the market value shown by sale deed dated 28.8.1969 taking into account the proportion of area of land mentioned in these deeds. This shows that sale deeds do not depict real market value and no reliance has been rightly placed upon them.

The Parishad has not brought anything except making wild assertions that the land of Scheme No.7, which was subject matter of Reference No.75 of 1984, was not similarly situated as the land, which is subject matter of the present L.A.R. No.79 of 1988, giving rise to the present First Appeal. At least we find no evidence on behalf of the Parishad to establish the said contention of the Parishad.

On the other hand, as noted above, it is not disputed that the land comprised in Scheme No.6 of Belt No. 1 is abetting Meerut-Garh Mukteshwar road situated in village Aurangshahpur Diggi which is comparable to the land in Housing Scheme No.7 of Belt No.1 (subject matter of Scheme No.7) which was under consideration in L.A.R. No.75 of 1984.

Learned counsel for the Parishad referred to the decision in the case of Special Tehsildar (LA) Versus Smt. A Mangala Gauri, AIR 1992 SC 666 and Periyar & Pareekanni Rubbers Ltd. vs State of Kerala, AIR 1990 SC 2192 (para-5 and 8).

We do not intend to burden our judgment since above two decisions of Hon'ble Apex Court are entirely based on different facts. In the case in hand the question for consideration is as to whether court below could legally base his award on the basis of earlier award in L.A.R. No.75 of 1984.

As already discussed above and in view of decision of the

Division Bench in the case of U.P. Avas Evam Vikas Parishad (supra), we do not find any illegality being committed by the court below, particularly subject matter of L.A.R. No.75 of 1984 and that of Scheme No.6 in the present L.A.R. No.79 of 1988 (giving rise to the present First Appeal) are similarly situated and has similar advantages."

Shri Rakesh Dwivedi, learned senior counsel for the petitioner argued that even though compensation at the rate of Rs.26.25 per sq. yard was awarded for the land acquired for Housing Scheme No.7, while applying the ratio of the judgment in First Appeal No.178/1989 - U.P. Avas Evam Vikas Parishad vs. Yadu Raj Narain and others, the High Court should have adopted the belting system and awarded compensation at the rate of Rs.26.25 per sq. yard in respect of land abutting Meerut-Garh Mukteshwar road and at a lesser rate in respect of other parcels of land.

In our view, there is no merit in the argument of learned senior counsel. It is not in dispute that the petitioner had acquired a big chunk of land measuring 453 acres 19 bighas land for Housing Scheme No.6. Therefore, there could be no justification to adopt the belting system and award lesser compensation to those whose land was situated away from Meerut-Garh Mukteshwar road.

We are further of the view that the determination of compensation made by the Reference Court was based on correct evaluation of the facts and analysis of evidence produced by the parties and the High Court did not commit any error by refusing to interfere with the same.

The special leave petitions are accordingly dismissed. The interim orders passed by this Court are vacated and the petitioner is directed to pay the balance amount of compensation to the respondents and/or their legal representatives within a period of three months from today by getting demand drafts prepared in their names.

SLP(C) NO. 4342-4355 of 2005

These petitions are directed against judgment dated 23.03.2004 passed by the Division Bench of the Allahabad High Court whereby the appeals filed by the petitioners and U.P. Avas Evam Vikas Parishad under Section 54 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') were dismissed and the determination of compensation made by IVth Additional District Judge, Meerut (for short, 'the Reference Court') under Section 18 of the Act was upheld.

Although, the learned counsel for the petitioners made an endeavor to convince us that the determination of compensation made by the Reference Court was faulty, we do not find any merit in his submission. Before the Reference Court, the petitioners had relied upon the determination of compensation made in respect of land acquired for Housing Scheme No.7, Meerut. Therefore, they cannot now claim that they should be awarded higher compensation.

With the above observation, the special leave petitions are dismissed.

SLP(C)No.3317 of 2007

This petition is directed against order dated 25.07.2006 passed by the learned Single Judge of the Allahabad High Court whereby he allowed the first appeal filed by the respondents, set aside the judgment of the Reference Court and held that the respondents are entitled to compensation at the rate of Rs.26.25 per sq. yard.

Having heard learned counsel for the petitioner, we are satisfied that the impugned order does not suffer from any illegal infirmity requiring interference by this Court under Article 136 of the Constitution.

The special leave petition is accordingly dismissed. Interim order dated 12.02.2007 is vacated and the petitioner is directed to pay the balance amount of compensation to the respondents within a period of three months from today by getting demand drafts prepared in their names.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master