

\220k1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.(S).2257-2258 OF 2009
MUHAMMAD MASUD MUHAMD. MOHSIN BHAIJI&ORS
VERSUS

Appellant(s)

UNION OF INDIA & ORS.
C.A. No. 2362-2363/2008
C.A. No. 4535/2008
C.A. No. 4624/2008
C.A. No. 4625/2008
C.A. No. 4945-4946/2008
C.A. No. 2259-2260/2009
C.A. No. 2261-2262/2009
C.A. No. 2263/2009
C.A. No. 2264-2265/2009
C.A. No. 2266/2009
C.A. No. 2267/2009
C.A. No. 2268/2009
C.A. No. 2269/2009
C.A. No. 2270/2009
C.A. No. 2271/2009
C.A. No. 2272/2009
C.A. No. 2273/2009
C.A. No. 2274-2275/2009
C.A. No. 2276-2277/2009
C.A. No. 2278-2279/2009
C.A. No. 2280/2009
C.A. No. 2281/2009
C.A. No. 2282-2283/2009
C.A. No. 2284/2009
C.A. No. 2285-2286/2009
C.A. No. 2287-2288/2009
C.A. No. 2289-2290/2009
C.A. No. 2291-2292/2009
C.A. No. 2293-2294/2009
C.A. No. 2295-2296/2009
C.A. No. 2297/2009
C.A. No. 2298-2299/2009
C.A. No. 2300/2009
C.A. No. 2301/2009
C.A. No. 2302/2009
C.A. No. 2303/2009

Respondent(s)

2

C.A. No. 2304-2305/2009
C.A. No. 2306-2307/2009
C.A. No. 2308/2009
C.A. No. 2309/2009
C.A. No. 2310/2009
C.A. No. 2311/2009
C.A. No. 2312/2009
C.A. No. 2313-2314/2009
C.A. No. 2315-2316/2009
C.A. No. 2317-2318/2009
C.A. No. 2319/2009
C.A. No. 4802/2009
C.A. No. 5822/2009
C.A. No. 7471/2011
C.A. No. 74-75/2012
C.A. No. 5043-5044/2012
C.A. No. 5045-5046/2012
C.A. No.298 of 2016(Arising out of SLP(C) No. 5988/2008)
C.A. No.296-297 of 2016(Arising out of SLP(C)No.6339-6340/08)
C.A. No.307 of 2016(Arising out of SLP(C) No. 8036/2008)
C.A. No.331-332 of 2016(Arising out of SLP(C)No.8641-8642/08)
C.A. No.308-309 of 2016(Arising out of SLP(C) No.9018-9019/08)
C.A. No.310-311 of 2016(Arising out of SLP(C)No. 9159-9160/08)
C.A. No.299-300 of 2016(Arising out of SLP(C)No. 9778-9779/08)

C.A. No.306 of 2016(Arising out of SLP(C) No. 12359/2008)
C.A. No.301 of 2016(Arising out of SLP(C) No. 13038/2008)
C.A. No.302-303 of 2016 (Arising out of SLP(C)No.13714-13715/2008)
C.A. No.333-334 of 2016 (Arising out of SLP(C)No.21881-21882/2008)
C.A. No.304-305 of 2016 (Arising out of SLP(C)No.22639-22640/2008)
C.A. No.313 of 2016 (Arising out of SLP(C) No. 6654/2009)
C.A. No.318 of 2016 (Arising out of SLP(C) No. 10238/2009)
C.A. No.316 of 2016 (Arising out of SLP(C) No. 10242/2009)
C.A. No.317 of 2016 (Arising out of SLP(C) No. 10243/2009)
C.A. No.330 of 2016 (Arising out of SLP(C) No. 10362/2009)
C.A. No.315 of 2016 (Arising out of SLP(C) No. 10363/2009)
C.A. No.319 of 2016 (Arising out of SLP(C) No. 10370/2009)
C.A. No.314 of 2016 (Arising out of SLP(C) No. 10371/2009)
C.A. No.312 of 2016 (Arising out of SLP(C) No. 13458/2009)
C.A. No.324-325 of 2016 (Arising out of SLP(C)No.22894-22895/2009)
C.A. No.320-321 of 2016 (Arising out of SLP(C) No.24167-24168/2009)
C.A. No.326-327 of 2016 (Arising out of SLP(C) No.24750-24751/2009)
C.A. No.322-323 of 2016 (Arising out of SLP(C) No.24752-24753/2009)
C.A. No.328 of 2016 (Arising out of SLP(C) No. 30053/2011)
C.A. No.329 of 2016 (Arising out of SLP(C) No. 30054/2011)

3

O R D E R

Delay in filing the special leave petitions is condoned.

Delay in filing the applications for restoration is condoned and the special leave petitions restored to their original number.

Delay in filing the applications for substitution is condoned and substitution allowed.

Applications for impleadment/intervention are also allowed.

Leave granted.

These appeals arise out of separate but similar orders passed by a Division Bench of the High Court of Judicature at Bombay whereby a batch of cross appeals preferred before it by the parties have been allowed and orders passed by the Reference Court in favour of the appellants/claimants set aside. The litigation culminating in the filing of these appeals has a chequered history which may be summarised as under:

By a notification dated 3rd February, 1970 issued under Section 4 of the Land Acquisition Act, 1894, a large extent of marshy land used as salt pans for manufacture of salt measuring 1262 hectares (approximately) was notified

4

for planned development and utilization for industrial, commercial and residential purposes. A declaration under Section 6 of the Land Acquisition Act followed on 24th

May, 1971, but nearly two years after the same, the State Government decided to withdraw/cancel the said declaration and issue a fresh preliminary notification in which the State proposed to acquire only leasehold and other outstanding interests of private persons as the land affected by the acquisition was said to be owned by the Central Government. A declaration under Section 6 of the Act came to be issued on 11th

December, 1975.

The appellants/claimants, it is common ground filed their respective claims for payment of compensation stating inter alia that the lands in-question were actually owned by them and not the government. They also claimed compensation towards development costs and losses of business on account of the proposed acquisition. Several awards were made by the Collector in regard to the extent of land being acquired from each one of the appellants. The appellants and their

predecessors-in-interest in the meantime appear to have filed Writ Petition No.4501 of 1983 before the Bombay High court challenging the acquisition proceedings including notifications under Sections 4 and 6 of the Act,

5

aforementioned. The said writ petition was however dismissed by the High Court of Bombay in terms of a judgment and order dated 5 th

August, 1985. The High Court held that the question whether the appellants or anyone of them had any right or interest qua the land in-question will also be gone into under Section 18 of the Act where references for payment/enhancement of compensation were pending. We shall presently advert to that part of the order passed by the High Court but before we do so we may as well complete the factual narrative relevant to the determination of the issues that fall for our consideration.

Aggrieved by the order passed by the High Court, some of the appellants or their predecessors-in-interest approached this Court by way of special leave petitions which were dismissed by an order dated 9 th

December, 1985.

The order passed by this Court also like the order passed by the High Court made it clear that the question whether the appellants were the owners of any right in the property sought to be acquired and if so what compensation was payable to them, shall also be determined in the references preferred by them. We shall presently refer to the said order also while we formulate and answer the questions that fall for our determination.

6

It is a common ground that pursuant to the orders passed by the High Court and the one passed by this Court in the special leave petitions, the reference court put the ownership of the appellants in issue in regard to the parcels of land being acquired by the Government. It is also noteworthy that some of the persons claiming ownership over the land being acquired by the Government filed Civil Suit No.54 of 1984 which was pending while the reference court was seized of the proceedings under Section 18 of the Act. It is common ground that by an order dated 6 th

July, 1990 the said suit was stayed pursuant to a joint application made by the parties who, it appears were agreed that the suit ought to stay in view of the fact that references involving the question of ownership of the plaintiffs qua the land under acquisition was being examined by the reference court. By an order dated 23 rd

June, 1993, the District Judge, Alibaug, disposed of the references pending before it holding that the appellants and/or their predecessors-in-interest were owners of the land acquired by the Government hence entitled to payment of compensation at the rate of Rs.15,000/- per acre besides Rs.5,000/- per acre towards costs of construction raised

7

over the same. Other statutory benefits admissible under the Land Acquisition Act were also held payable to the appellants.

Aggrieved by the judgment and order passed by the reference court, the parties filed cross appeals before the High Court of Bombay. While the appeals filed by the appellants/claimants or their predecessors-in-interest

claimed enhancement of the amount of compensation held payable to them, the appeals preferred by the Union of India and the State Government challenged the order passed by the reference court to the extent the same held the appellants/claimants to be the owners of the land under acquisition as also the amount of compensation held payable to them. The appeals preferred were eventually disposed of by the Bombay High Court in terms of a judgment and order dated 9th

/10th

/11th

September, 1996. The High Court took the view that while the appellants herein were not the owners of the land, being acquired by the State, they were entitled to be compensated for the possessory/leasehold rights enjoyed by them over a long period of time. The High Court on that basis reduced the amount of compensation awarded by the reference court from Rs.15,000/- per acre to Rs.12,000/- per acre. The compensation awarded by the reference court towards

8

improvement made by them over the land in-question was however left untouched.

Aggrieved by the order passed by the High Court the Jawaharlal Nehru Port Trust, who was added as a party to the appeals before the High Court and private parties who claim to be owners of the lands in-dispute, preferred cross-appeals before this Court, which appeals were by an order dated 14th

February, 2002 allowed setting aside the order passed by the High Court and remanding the matter back to the High Court for a fresh disposal of each of the appeals separately. All questions agitated by the parties were however left open. It is not in dispute that a review petition filed by the Union of India against the said order was also dismissed on 20th

August, 2002, thereby bringing finality to the order of remand passed by this Court.

The High Court of Bombay has pursuant to the remand aforementioned heard the appeals afresh and while allowing the appeals preferred by the Jawaharlal Nehru Port Trust, Union of India and the State of Maharashtra, set aside the order passed by the reference court holding that the reference court had no jurisdiction to go into the question whether the appellants were the owners of the

9

land in-question. The High Court has further held that since apart from the claim of ownership over the lands acquired by the Government, no other right was either claimed nor any evidence led to establish any such right, no compensation for any such incidental right could be awarded. The net effect, therefore, is that the order passed by the reference court holding the appellants to be the owners of the land hence entitled to compensation, stands reversed. Cross appeals filed by the claimants claiming further enhancement in compensation awarded by the reference court were resultantly dismissed. The present appeals, as already noticed earlier, call in question the correctness of the view taken by the High Court.

We have heard learned counsel for the parties at considerable length who have taken us through the orders passed by the High Court and those passed by this Court from time to time. We have also been taken through the orders impugned in these appeals. The short question that falls for our determination is whether the High Court was

right in holding that the reference court had no jurisdiction to decide the question of ownership of the acquired property at the instance of the appellants/claimants or their predecessors-in-interest.

10

Learned counsel for the appellants fairly conceded that if the appellants fail to establish their ownership qua the parcels of lands which they claim are owned by them, as on the date of their acquisition, no other claim is either made or need be investigated. They, however, vehemently argue that the High Court fell in a serious error in holding that reference court did not have the jurisdiction to entertain or examine any dispute touching the ownership of the claims over the land acquired by the State. They submitted that the High Court has while taking that view ignored the previous orders passed by it and that passed by this Court in appeal whereby this Court had clearly held that the question of ownership of the claimants shall also be the subject-matter of determination in the references made to the civil court. Inasmuch as the High Court ignored the said orders and held that the reference court could not go into the question of ownership of the appellants, it fell in a palpable error. They submitted that the High Court ought to have appreciated the distinction between the factual matrix of the cases at hand and the decisions which it has relied upon including the decision in *Sharda Devi v. State of Bihar and Another* (2003) 3 SCC 128. They submitted that the appellants had not only been permitted to agitate the question of

11

ownership but the reference court had pursuant to that permission framed an issue and allowed the parties to adduce evidence in proof thereof. At no point of time either before the reference court or the High Court had the State or Union of India questioned the jurisdiction of the reference court to go into the question of ownership claimed by the appellants or their predecessors-in-interest. On behalf of the respondents, it was contended that since the State claimed that ownership over the land in-dispute issued either in itself or the Union of India, the notifications issued under Sections 4 and 6 of the Act similarly declared that it was not acquiring any such ownership inasmuch as the same was already vested in the State or the Central Government. It was also contended that all that was notified for acquisition are the leasehold and other outstanding interests of persons in occupation of the land that was owned by the Government and any dispute as to the extent of only such rights and interests as were notified for acquisition could be the subject-matter of a reference to the civil court. It was urged that disputes relating to ownership over the land in-question were clearly beyond the scope of the references made to the civil court and that the reference

12

court was in error in going into the said dispute as was rightly held by the High Court. It was argued that any adjudication of the claim of ownership by any party affected by the acquisition proceedings or any person interested in the payment of compensation fall outside the scope of Section 18 of the Land Acquisition Act. Alternatively it was submitted by Ms. Pinky Anand, learned Additional Solicitor General appearing for Jawaharlal Nehru Port Trust, that the High Court had after declaring that the reference court had no jurisdiction to go into the question of ownership of the appellants/claimants qua

the lands, gone further to examine the evidence on record and held that no such ownership had been established by the claimants. It was submitted that the appellants had lost on both counts before the High Court. Even assuming that the question of ownership over the disputed land was amenable to adjudication before the reference court or the High Court, the High Court having reversed the finding regarding ownership, there was no room left for interference with the said finding by this Court especially when the High Court was as first appellate court the last court on facts. We have given our anxious consideration to the submissions made at the Bar. The short question that

13

falls for our determination is whether the High Court was right in holding that the reference court had no jurisdiction to examine the question of ownership of the appellants/claimants qua the lands acquired by the State. The High Court has accepted the line of reasoning advanced before us by Ms. Anand and held that since the ownership in the lands under acquisition was claimed by the State either by itself or Union of India, no such ownership was the subject matter of acquisition. The High Court has held that in a case where the ownership vests in the State, there is no room for its acquisition and any dispute relating to such ownership falls beyond the scope of Section 18 of the Land Acquisition Act. That view, in our opinion, suffers from a palpable error in the peculiar facts and circumstances of this case. We say so because while holding that the reference court could not have gone into the question of ownership, the High Court has overlooked the view taken by it in the earlier round of proceedings between the same parties. Before the High Court in the earlier round, one of the contentions urged on behalf of the appellants/claimants was that the expression "Outstanding interests" appearing in the notifications issued by the State did not include ownership rights of the appellants. The argument, it

14

appears, was that since the notification did not acquire ownership rights of the appellants, the acquisition itself was legally bad. That contention was rejected by the High Court on the ground that the subsequent notification issued by the Government apart from acquiring leasehold rights also acquired "Sall outstanding interests" in the said lands. The High Court took the view that the expression "Sall the outstanding interests" in the lands included the disputed ownership rights set up by the appellants also. The High Court had held that the context in which the expression "Sall the outstanding interests" had been used in the notifications seen in the light of the history of acquisition showed that such outstanding interest included even the disputed claim of ownership of the appellants. The High Court had while dealing with this aspect observed:

"S By subsequent notification, apart from the lease-hold rights all the outstanding interests in the said lands are being acquired which must include in its import disputed ownership rights of the petitioners. In our view the context in which the said expression is used together with the history of acquisition, it will include even the disputed claim of ownership. When there is a dispute about the ownership, and it is the case of the State Government that the ownership does not vest in the petitioners but in the Central Government, then what the Government could acquire would only be the

outstanding interests in the lands, which must take in its import even the claim of ownership as made by the petitioners. At least it was the petitioners understanding also.

15

It is also noteworthy that yet another contention urged on behalf of the appellants was that the land acquisition officer could not have decided the ownership rights of the claimants in the proceedings under the Land Acquisition Act. That was one of the grounds of challenge to the acquisition proceedings but the same was also rejected by the High Court when it said :

...If various provisions of the Land Acquisition act are read together including Section II of the Act which deals with the enquiry into the measurement, value and claims of compensation it is clear that if a claim is made by a private person that he is the owner of the property the Land Acquisition Officer is entitled to enquire into the said claim while determining and awarding the compensation. This position is further clear from the provisions of Chapter II of the Land Acquisition Act which deals with the reference to Court and the procedure thereof. Therefore in our view the petitioners could have made their claim for ownership before the Land Acquisition Officer and the Land Acquisition Officer could have enquired into the said claim. It is not necessary to deal with this aspect of the matter any further since Shri Singhvi conceded that if a claim of ownership is made by a private party qua the lands sought to be acquired, then the Land Acquisition Officer who is exercising the powers of the collector has jurisdiction to decide the said question. More so when in fact such a claim was made by the petitioners before the Land Acquisition Officer and had also made a reference to Court under Section 18 of the Act.

The High Court eventually summed up its conclusions paragraphs '14' and '15' in the follow words:

â- S 14. As already observed the claim made by the petitioners qua the ownership of the lands and compensation claimed on that count could be effectively agitated in the reference proceedings

16

pending before the Civil Court. Therefore in any case in view of the pendency of the reference in the civil court, this is not a fit case wherein any interference is called for with the awards passed by the Land Acquisition Officer. As already held notifications issued under sections 4 and 6 of the Land Acquisition Act in the year 1973 and 1975 cannot also be challenged at this late stage. More so when the land acquisition proceedings are wholly completed. In the view which we have taken, therefore, it is not necessary to go into the merits of the controversy or to decide the question of title qua the lands acquired.

15. In some of these writ petitions we are informed that the awards are yet to be passed by the Land Acquisition Officer. If this is so then the petitioners in those writ petitions are at liberty to put forward their ownership claim qua lands in dispute before the Land Acquisition Officer and if such a claim is made, then the Land Acquisition Officer is obliged to consider it in accordance with law. In the result, no interference is called for in those writ petitions also.â- \235

It is evident from the above passages extracted from

the orders passed by the High Court in the previous round of litigation that the notifications under Sections 4 and 6 were interpreted to mean that all outstanding interests including disputed ownership rights claimed by the appellants have been notified for acquisition. It was also evident that the question whether or not this claim to ownership was well-founded was left to be determined by a competent civil court in a reference under the provisions of the Land Acquisition Act. That view was challenged before this Court in special leave petitions which were dismissed by this court by a short order dated

17

9th

December, 1985 making it abundantly clear that the question whether the petitioner/appellants are owners of any right in the property and entitled to compensation if any are left open for determination in the references preferred by them. The order passed by this Court was in the following words:

â- S The Special Leave Petitions are dismissed but we may observe that the questions whether petitioners are the owners of any right in the property and if so to what compensation, if any, are they entitled are questions open to determination in the references preferred by them. The Court disposing of the references will do so without being influenced or fettered by any observations made in these cases so far as those observations bear upon the questions to be decided by it.â- \235

In the light of the above two orders, one by the High Court and the other passed by this Court, we have no manner of doubt that the question whether the appellants or anyone of them or their predecessors-in-interest were owners of any parcel of the land acquired from their possession, was held to be amenable to determination in appropriate proceedings under Section 18 of the Land Acquisition Act. That precisely is the reason why the references gave rise to specific issues regarding such ownership framed in each case regarding which the parties were allowed an opportunity to adduce their evidence which they did, eventually leading to a finding in favour of the appellants. The fact that the State as also the

18

appellants had jointly prayed for stay of the proceeding in the original suit that sought a declaration of title qua the lands in-dispute, also signified that both the parties agreed to the question of title over the lands in-question, being examined in the pending references. There was no question of duplicating that exercise in separate proceedings when the issue regarding ownership was already framed and being tried in the references. All told, the parties to the references were fully aware of the fact that the scope of such references was wide enough to include the question whether claimants were the owners of the lands acquired from them. What is important is that having gone through the process of adjudication over a long period of time and having suffered a judgment, holding the claimants to be the owners of the property, the State and the Union preferred appeals before the High Court of Bombay in which the contention that the reference court had no jurisdiction to entertain the dispute regarding ownership of the claimants over the lands in-question was never raised for consideration of the High Court. The High Court had therefore gone into the question of ownership on the premise that the same too was one of the questions that fell for determination and could be legitimately determined. Answering the question

19

against the appellants, the court held that the appellants could not claim compensation for loss of alleged ownership though they were entitled to payment of compensation on account of their possessory rights. In the appeals filed before this court against the said judgment and order also the question whether the reference court could examine and determine the ownership of the claimants was never agitated. The matter was then remanded to the High Court on 14th

February, 2002 nearly 23 years after the acquisition, for a fresh disposal leaving all questions of law open. It was at that stage after the remand that the question whether the reference court could or could not determine the claim of ownership made by the claimants was for the first time agitated before the High Court. The High Court was, in our opinion, in error in allowing the State to raise the question and in holding that the claim of ownership made by the claimants fell beyond the scope of the reference under Section 18 of the Land Acquisition Act, not only because the earlier orders passed by the High Court and that passed by this Court in appeal, said to the contrary, but also because, the plea raised before the High Court was a belated afterthought. That brings us to the alternative submission of Ms. Anand, who argued that even after answering the question

20

regarding the jurisdiction of the reference against the appellants/claimants, the High Court had gone into that question and recorded a finding that the claimants had failed to establish their ownership. Ms. Anand relied on some sentences appearing in the order passed by the High Court to demonstrate that it was upon consideration of the evidence by the High Court that a finding to that effect was recorded. We, however, find it difficult to accept that submission. The High Court has in the order impugned more than clearly held that the question of ownership of the claimants was beyond the scope of the proceedings under Section 18 of the Land Acquisition Act in the cases at hand. The High Court has after saying so referred to certain pieces of evidence adduced by the parties but stopped short of discussing the said evidence or recording a finding that ownership had indeed not been proved. What the High Court has emphasised repeatedly is that apart from setting up ownership in themselves the appellants had claimed no other lesser right that would entitle them to compensation. Nor was any evidence led to prove any such right. There is no finding whatsoever to the effect that the evidence adduced by the appellants did not establish their ownership. There was even otherwise no occasion for the High Court to go into the question of ownership of the

21

appellants/claimants after it had taken the view that the said question fell beyond the scope of reference. To the credit of learned counsel for the appellant who claim to be owners, we must mention that even they agreed that the rights claimed by the appellants qua the land in question are only ownership rights and that it is only if that question is gone into and held in their favour that they would be entitled to compensation. Independent of ownership, the appellants claim no right nor have they led any evidence to prove the same. In other words, in case the appellants/claimants fail to prove their ownership before the High Court, they will stand non-suited in toto. That submission is recorded. The appellants/claimants will be entitled to compensation only if they establish their ownership and not otherwise. To that extent, the

(With Interim Relief and Office Report)
SLP(C) No. 9159-9160/2008
(With Interim Relief and Office Report)
SLP(C) No. 9778-9779/2008
(With Office Report)

24

SLP(C) No. 12359/2008
(With Interim Relief and Office Report)
SLP(C) No. 13038/2008
(With Interim Relief and Office Report)
SLP(C) No. 13714-13715/2008
(With Interim Relief and Office Report)
SLP(C) (C) No. 21881-21882/2008
(I.A. NO(s).3-4, 5-6, 7-8 and I.A..... in SLP(C)No(s).21881-21882
of 2008 - With Appln.(s) for restoration of SLPs and condonation of
delay in filing applns. for restoration and deletion of the names
of respondents and substitution to bring on-record the Lrs. Of
deceased petitioner and condonation of delay in filing the said
applications in SLPs, with office report)
SLP(C) No. 22639-22640/2008
(With Interim Relief and Office Report)
C.A. No. 2259-2260/2009
(With Interim Relief)
C.A. No. 2261-2262/2009
(With Interim Relief and Office Report)
C.A. No. 2263/2009
(With Interim Relief and Office Report)
C.A. No. 2264-2265/2009
(With Interim Relief and Office Report)
C.A. No. 2266/2009
(With Office Report)
C.A. No. 2267/2009
(With Interim Relief and Office Report)
C.A. No. 2268/2009
(With Interim Relief and Office Report)
C.A. No. 2269/2009
(With Interim Relief and Office Report)
C.A. No. 2270/2009
(With Interim Relief and Office Report)
C.A. No. 2271/2009
(With Interim Relief and Office Report)

25

C.A. No. 2272/2009
(With Office Report)
C.A. No. 2273/2009
(With Office Report)
C.A. No. 2274-2275/2009
(With Office Report)
C.A. No. 2276-2277/2009
(With Office Report)
C.A. No. 2278-2279/2009
(With Interim Relief and Office Report)
C.A. No. 2280/2009
(With Interim Relief and Office Report)
C.A. No. 2281/2009
(With Interim Relief and Office Report)
C.A. No. 2282-2283/2009
(With Office Report)
C.A. No. 2284/2009
(With Interim Relief and Office Report)
C.A. No. 2285-2286/2009
(With Interim Relief and Office Report)
C.A. No. 2287-2288/2009
(With Interim Relief and Office Report)
C.A. No. 2289-2290/2009
(With Interim Relief and Office Report)
C.A. No. 2291-2292/2009

(With Interim Relief and Office Report)
C.A. No. 2293-2294/2009
(With Interim Relief and Office Report)
C.A. No. 2295-2296/2009
(With Interim Relief and Office Report)
C.A. No. 2297/2009
(With Interim Relief and Office Report)
C.A. No. 2298-2299/2009
(With Interim Relief and Office Report)
C.A. No. 2300/2009
(With Interim Relief and Office Report)

26
C.A. No. 2301/2009
(With Interim Relief and Office Report)
C.A. No. 2302/2009
(With Office Report)
C.A. No. 2303/2009
(With Office Report)
C.A. No. 2304-2305/2009
(With Interim Relief and Office Report)
C.A. No. 2306-2307/2009
(With Interim Relief and Office Report)
C.A. No. 2308/2009
(With Interim Relief and Office Report)
C.A. No. 2309/2009
(With Interim Relief and Office Report)
C.A. No. 2310/2009
(With Office Report)
C.A. No. 2311/2009
(With Office Report)
C.A. No. 2312/2009
(With Office Report)
C.A. No. 2313-2314/2009
(With Interim Relief and Office Report)
C.A. No. 2315-2316/2009
(With Office Report)
C.A. No. 2317-2318/2009
(With Interim Relief and Office Report)
C.A. No. 2319/2009
(With Office Report)
C.A. No. 4802/2009
(With Office Report)
C.A. No. 5822/2009
(With Office Report)
SLP(C) No. 6654/2009
(With Interim Relief)

27
SLP(C) No. 10238/2009
(With Office Report)
SLP(C) No. 10242/2009
(With Office Report)
SLP(C) No. 10243/2009
(With Office Report)
SLP(C) No. 10362/2009
(With Office Report)
SLP(C) No. 10363/2009
(With Office Report)
SLP(C) No. 10370/2009
(With Office Report)
SLP(C) No. 10371/2009
(With Office Report)
SLP(C) No. 13458/2009
(With Office Report)
SLP(C) No. 22894-22895/2009
(With Office Report)
SLP(C) No. 24167-24168/2009
(With appln.(s) for intervention and Office Report)

SLP(C) No. 24750-24751/2009
(With Office Report)
SLP(C) No. 24752-24753/2009
(With Office Report)
C.A. No. 7471/2011
(With Office Report)
SLP(C) No. 30053/2011
(With Office Report)
SLP(C) No. 30054/2011
(With Office Report)
C.A. No. 74-75/2012
(With Office Report)
C.A. No. 5043-5044/2012
(With Interim Relief and Office Report)
C.A. No. 5045-5046/2012
(With Interim Relief and Office Report)

28

Date : 14/01/2016 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s)/
petitioner(s)

Mr. Shyam Divan, Sr. Adv.
Mr. Vinay Navare, Adv.
Mr. Gwen K.B., Adv.
Mr. Rajesh Satpalkar, Adv.
Mr. Saswat Pattnaik, Adv.
Mr. Uday Aditya, Adv.
Mr. Shikhar Bhardwaj, Adv.
Ms. Abha R. Sharma, Adv.
Mr. Jaideep Gupta, Sr. Adv.
Mr. Rakesh K. Ojha, Adv.
Mr. Achintya Dvivedi, Adv.
Mr. Inder Raj Gill, Adv.
Mr. Ashok Mathur, Adv.
Mr. Jayant Bhushan, Sr. Adv.
Ms. Nishi Baranwal, Adv.
Mr. Achintya Dvivedi, Adv.
Ms. Tavishi, Adv.
Mr. Pravin Satale, Adv.
Mr. Rajiv Shankar Dvivedi, Adv.
Mr. K.K. Venugopal, Sr. Adv.
Mr. Hemant Sahai, Adv.
Mr. Sakya Singha Chaudhuri, Adv.
Ms. Pragya Ohri, Adv.
Ms. Kanika Chugh, Adv.
Mr. Shekhar Naphade, Sr. Adv.
Mr. D.P. Mohanty, Adv.
Mr. Kohtrahal Raj, Adv.
Mr. Santosh Paul, Adv.
Mr. D.P. Mohanty, Adv.
Mr. Kshatrashal Raj, Adv.
Mr. Aditya Sharma, Adv.
Mr. Anurag Tripathi, Adv.
For M/s. Parekh & Co.
Mr. S. K. Bhattacharya, Adv.
Mr. Niraj Bobby Paonam, Adv.
Mr. Shakil Ahmed Syed, Adv.

29

Mr. Mohd. Parvez Dabas, Adv.
Mr. Uzmi Jamil Husain, Adv.
Mr. Abhijat P. Medh, Adv.
Mr. Vikas Mehta, Adv.
Mr. Prateek Jalan, Adv.
Mr. Hemant Sharma, Adv.

Mr. Ankit Yadav, Adv.
Mr. Rahul Kriplani, Adv.
Ms. Indu Sharma, Adv.
Mr. Shivaji M. Jadhav, Adv.
Mr. Naresh Kumar, Adv.
Mrs Manik Karanjawala, Adv.
Mr. Aslam Ahmed, Adv.
Mr. Puneet Singh Bindra, Adv.
Mr. Babit Singh Jamwal, Adv.
Mr. Avijit Bhattacharjee, Adv.
Mr. D.K. Singh, Adv.
Mr. Pradub Shukla, Adv.
Mr. Saurabh Agrawal, Adv.
Ms. Kamal Mundra, Adv.
Mr. Abhijit Sengupta, Adv.
Mr. Sudhanshu S. Choudhari, Adv.
Mr. Rajat Kapoor, Adv.
Mr. Chinmoy Khabdker, Adv.
Mr. Vimal Chandra S. Dave, Adv.
Mr. Satyajit A. Desai, Adv.
Ms. Anagha S. Desai, Adv.
For Respondent(s) Mr. Mukul Rohatgi, AG
Ms. Pinky Anand, ASG
Mr. Rajat Singh, Adv.
Mr. Ashish Kumar, Adv.
Mr. Aayush Chandra, Adv.
Ms. Prerna Mehta, Adv.
Mr. Ajay Sharma, Adv.
Ms. Saudamini, Adv.
Mr. Sanjay Upadhyay, Adv.
Mr. Rajiv Sharma, Adv.
Mr. Shalik Shafiquee, Adv.
Ms. Neelam Sharma, Adv.
Ms. Divya Sharma, Adv.

30

Ms. Kritika, Adv.
Ms. Snidha, Adv.
Mr. D.S. Mahra, Adv.
Mr. P.S. Patwalia, ASG
Mr. A.K. Sanghi, Sr. Adv.
Dr. Abhishek Atrey, Adv.
Mr. Ravindra Lokhande, Adv.
Mr. R.K. Rathore, Adv.
Ms. Rekha Pandey, Adv.
Mr. R.S. Nagar, Adv.
Mr. S.S. Rawat, Adv.
Mr. Rajat Singh, Adv.
Mr. Mohan Prasad Gupta, Adv.
Mr. Shadman Ali, Adv.
Mr. Ajay kumar Singh, Adv.
Mr. D. S. Mahra, Adv.
Mrs. Anil Katiyar, Adv.
Mr. Prashant S. Kenjale, Adv.
Mr. Nishant Ramakantrao Katneshwarkar, Adv.
Mr. Arpit Rai, Adv.

Mr. T.M. Kumar, Adv.
Mr. Abhishek Kumar Pandey, Adv.
Ms. Nivedita Nair, Adv.
Mr. Vinod Kumar Tiwari, Adv.
Mr. Abhijit Sen Gupta, Adv.
Ms. Indu Sharma, AOR.
Mr. Shridhar Y. Chitale, Adv.
Mr. Abhijat P. Medh, Adv.
Mr. A. S. Bhasme, Adv.
Mr. Pankaj Kr. Mishra, Adv.
Ms. Purnima Bhat, Adv.
Mr. Akash Kakade, Adv.

Ms. Anuradha Mutatkar, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Heard.

In terms of the signed order, these appeals are allowed:

â- S Delay in filing the special leave petitions is condoned.

31

Delay in filing the applications for restoration is condoned and the special leave petitions restored to their original number.

Delay in filing the applications for substitution is condoned and substitution allowed.

Applications for impleadment/ intervention are also allowed.

... ..

In the result, we allow these appeals, set aside the judgments and orders passed by the High Court and remit the matters back to the High Court, with a request to the High Court to hear and dispose of the matters afresh in accordance with law keeping in view the observations made above.

Since the matters have been languishing for a long time, we expect the High Court to make an endeavour to dispose of the cases as expeditiously as possible.

In the peculiar circumstances of the case, the parties are left to bear their own costs.

Needless to say that the interim arrangement made, shall continue which would imply that the bank guarantees shall be duly renewed by the appellants to the satisfaction of the High Court. We make it clear that we have expressed no opinion on the merits of the question whether the appellants/claimants are the owners of the land in-question. That issue is left open to be determined by the High Court in accordance with law, in each case on the basis of material adduced by the parties before the reference court.â- \235

(MAHABIR SINGH)

COURT MASTER

(Signed order is placed on the file)

(SAROJ SAINI)

COURT MASTER