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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.(S). 1682 OF 2016
(Arising out of S.L.P. (C) No.5060 of 2008)
JAI VIR SINGH

Appellant(s)

VERSUS

STATE OF U.P.& ANR.
WITH

Respondent(s)

CIVIL APPEAL NO.(S). 1683 OF 2016
(Arising out of S.L.P. (C) No. 13694 of 2008)

O R D E R

Leave granted .

Civil Appeal No.1682 of 2016 :

This appeal arises out of an order dated 16th
November,

2007 passed by the High Court of Judicature at Allahabad
whereby Writ Petition No.18871 of 2006 filed by the
appellant has been partly allowed and an order of
punishment, dated 17th

January, 2006 reducing the appellant
to the rank of Civil Judge (Junior Division) quashed with
the direction that the appellant shall suffer reduced

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punishment of stoppage of three future annual increments
with cumulative effect from the date of the issue of the
order of punishment i.e. dated 17th
January, 2006. The

factual matrix in a nutshell is as under.

A parcel of land measuring 3 bighas and 4 biswas,
owned by Wing Commander P.S. Bali, situate on Khasra
No.437 of village Dasna in Ghaziabad District was acquired
by the State Government under the Land Acquisition Act,
1894. The possession of the acquired land, it appears,
was taken on 14th

December, 1988 and an award determining
the compensation for the same published on 7th
December,

1990. The Award was, however, confined to compensation
held payable to the owner for the land aforementioned
excluding the superstructures and the trees growing on the
same. A supplementary award in due course was made by the
Special Land Acquisition Officer on 10th

August, 1997 for
the structures and the trees standing on the acquired
land.

Dissatisfied with the amount determined by the
Collector towards compensation, the owner-Shri P.D. Bali
sought a reference under Section 18 of the Land
Acquisition Act which was registered as Land Acquisition
Reference NO.624 of 1997. The Reference court by a
judgment and Award dated 16th

January, 2001 found that the

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owner was entitled to enhanced compensation at the rate of
Rs.163 per square yard along with other statutory benefits
including interests with effect from the date of
notification under Section 4 upto the date of the delivery
of the possession besides solatium at the rate of 30%
payable under Section 23(2) of the Act. The Reference
Court also held the owner entitled to payment of
Rs.6,54,921.71 towards compensation for the
superstructures comprising two rooms, two hand-pumps, one
samadhi and the trees standing on the land together with
interests at the rate of 15% with a direction that any
amount already paid shall be adjusted from the amount so
awarded.

Aggrieved by the enhanced amount held payable to the owner, Ghaziabad Development Authority appears to have preferred First Appeal NO.466 of 2008 before the High Court of Judicature at Allahabad. The owner-Shri P.D. Bali was also it appears dissatisfied with the enhanced compensation held payable to him as he preferred First Appeal NO.423 of 2008 for further enhancement of the amount. Both the appeals, aforementioned, were heard by a Division Bench of the High Court of Allahabad and disposed off by two separate judgments both dated 13 th December,

2013. In First Appeal NO.466 of 2008 filed by the

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Ghaziabad Development Authority, the High Court relying upon an earlier order passed in a connected appeal titled â- S Ghaziabad Development Authority v. Chandra Bhan & Ors. â- \235 reduced the amount of compensation payable for the land in-question from Rs.163 per square yard to Rs.71.43 per square payable with statutory benefits like solatium, interests etc. As regards the enhancement awarded by the Reference Court towards the value of the superstructures, bore-wells and trees, the High Court found no reason to interfere and accordingly dismissed the appeal insofar as the same related to those items.

In First Appeal No.423 of 2008 preferred by the owner-P.D.Bali, the High Court noted that it had while allowing the appeal filed by Ghaziabad Development Authority in respect of the valuation of land reduced the amount of compensation payable to the owner to Rs.71.43 per square yard but partly allowed the owner's appeal to the extent of granting solatium even on the amount of compensation payable for the superstructures, trees etc. Dissatisfied with the view taken by the High Court, the owner preferred S.L.P.(C) No.10191 of 2014, before this Court which was heard along with a bunch of similar other appeals arising out of the very same acquisition proceedings and disposed off in terms of judgment and

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order dated 9 th December, 2014. This Court upon a reappraisal of the evidence on record and the exemplars relied upon by the owners, reversed the view taken by the High Court and restored the grant of compensation at the rate of Rs.163 per square yard, as awarded by the Reference Court with all statutory benefits. The judgment of this Court brought finality to the question whether the land owners including Wing Commander P.D. Bali was entitled to claim enhanced compensation for the parcel of land acquired from him and if so what is that compensation. The facts, thus, far stated do not directly concern the appellant who happened to be the IV th Additional District and Sessions Judge at Ghaziabad during the relevant period. The appellant, however, happened by a fortuitous circumstance, to be the Reference Court which dealt with the reference made at the instance of Wing Commander P.D. Bali. The order passed by the appellant enhancing the compensation from Rs.71.43 per square yard to Rs.163 per square yard was seen by the High Court on the administrative side to be a case of misconduct on the part of the appellant inasmuch as the reference in which the said enhancement was ordered, was perceived to be barred by limitation insofar as the same related to determination of compensation for the land acquired from

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the owner. A charge was on that premise framed against the appellant in the following words:

CHARGE SHEET

To,
Sri Jaivir Singh,
the then IVth Addl. District Judge,
Ghaziabad.

You are hereby charged as under:-

Charge No. 1. that you on 16.01.2001 while posted as IVth Additional District Judge, Ghaziabad, made a re-assessment of the value of 3 Bighas and 4 Biswas, by Rs. 95/- per square yard without having jurisdiction, so to do on the supplementary award restricted to dwelling house and trees, in your judgment in Land Acquisition Reference No. 624 of 1997, Wing Commander P.D.Bali Vs. State of U.P., entertaining the application of the claimant without there being any provision, so to do, in your anxiety to unduly favour the claimant illegally, as no reference u/s 18 of the Land Acquisition Act 1894 had been made against the award dated 07.12.1990 given by A.D.M. (Land Acquisition), thereby unduly giving the claimant an additional amount of Rs. 24,49,493/- against all judicial norms and propriety for extraneous considerations, and you thus committed misconduct within the meaning of Rule 3 of the U.P. Government Servant Conduct Rules 1956 .
The case against the appellant precisely was that

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since the Award made by the Collector under the Land Acquisition Act insofar as the same related to acquisition of land was published on 7 th

December, 1990, any application seeking reference to a civil court for determination of the true market value of the said property made on 10 th

August, 1997, was beyond the period of limitation prescribed for doing so. The contention urged in support of the charge against the appellant was that inasmuch as the appellant had as Additional District and Sessions Judge gone into the question of possible enhancement of compensation in favour of the owner qua the land acquired from him, he tried to deliberately and unfairly benefit the owner disregarding the fact that the reference was itself time-barred. An Enquiry Officer appointed to enquire into the charge appears to have found the appellant guilty and accordingly submitted a report which was accepted by the High Court who recommended appellant's reversion to the post of Civil Judge (Junior Division). A Government order issued pursuant to the said recommendation reverted the appellant to the post of Civil Judge (Junior Division).

Aggrieved, the appellant preferred Writ Petition No.18871 of 2006 before the High Court of Judicature at Allahabad to argue that there was no misconduct committed

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by him inasmuch as he had, in capacity as a judicial officer, examined the matter and taken a view which was legally sound without any deliberate or other intention to benefit the owner unduly. The High Court has by a very elaborate judgment declined to interfere with the finding recorded by the Enquiry officer and accordingly affirmed the view that the appellant was indeed guilty of misconduct inasmuch as he had gone into the question of enhancement of compensation payable to the land owner for the land acquired from him. Having said that, the High Court has held that the punishment of reversion to the post of Civil Judge (Junior Division) was ex facie disproportionate to the gravity of the misconduct alleged

and proved against him. The High Court instead of remanding the matter back to the High Court to take a fresh view on the administrative side directed that the appellant shall stand restored to the position of Additional District and Sessions Judge but shall suffer the lesser punishment of stoppage of three annual increments with cumulative effect. The present appeal, as noticed above, calls in question the correctness of the said judgment and order.

We have heard Mr. Subramonium Prasad, learned senior counsel appearing for the appellant and counsel appearing

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for the respondents. The material facts are not in dispute. It is not in dispute that there was no evidence, oral or documentary, to suggest that the appellant had delivered the judgment enhancing the compensation in favour of the land owner for any extraneous consideration. So much so the charge framed against the appellant did not suggest the payment or receipt of any such illegal consideration in cash or kind. It is also not in dispute that a reference was made to the civil court, presided over by the appellant, in which the collector making the reference had invited the court to determine whether the reference was maintainable qua the land acquired from the ownership of the owner. That both the parties went to trial in the said reference proceedings and that evidence was adduced in support of the claim based on which the Reference Court came to a finding as to the true market value of the land, is also evident from a reading of the judgment and order passed by the appellant as the Presiding Judge of the Reference Court. What is significant is that at no stage before the Reference Court or even in appeals preferred against the order passed by the appellant, was the question of limitation or the maintainability of the reference qua the acquisition ever raised or urged by anyone till the judgments were

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delivered by the High court, in the two cross appeals preferred before it. This leaves no manner of doubt that the question of maintainability of the reference on the ground that the application for such a reference was belated, was given up before the Reference Court and the High Court. That aspect was never raised even when the matter came up before us for enhancement of compensation and for restoration of the order passed by the Reference Court. This Court examined at considerable length the question of compensation payable to the owner, while setting aside the order passed by the High Court and restoring that passed by the appellant. From a reading of the order passed by this Court also it does not appear that any party to the proceedings including Ghaziabad Development Authority who was the beneficiary of the acquisition had ever raised any contention to the effect that the reference qua the land acquired from the owner was barred by limitation or otherwise, untenable. That being so, it would be anomalous to hold the appellant guilty of misconduct and to punish him for passing an award granting enhancement of the compensation to the owner which Award of enhancement was upheld by this Court and found to be perfectly justified. The very fact that the order passed by the High Court reducing the

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compensation has been set aside by this court and the order passed by the appellant restored, is a complete answer to the charge framed against the appellant. Having said that, we must mention that although the

High Court has delivered an elaborate judgment the true essence of the matter appears to have been overlooked by it. One of the reasons that could perhaps have been responsible for the error that the High Court fell into was that the Judgment of this Court in the appeals whereby this Court restored the view taken by the appellant while setting aside the order passed by the High Court in appeals, was not available to the High Court when the impugned judgment was delivered.

In the result, therefore, we have no hesitation in allowing this appeal, setting aside the judgment and order passed by the High Court and while allowing Writ Petition NO.18871 of 2006 quashing the impugned orders of reversion passed against the appellant, pursuant to the charge-sheet and the proceedings connected with the same. Needless to say that the appellant shall be deemed to have been exonerated of the charge and hence entitled to all consequential benefits in terms of retiral and other dues.

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Civil Appeal No.1683 of 2016 :

In the light of what we have said while allowing Civil Appeal No.1682 of 2016, this cross appeal filed by the High Court shall stand dismissed leaving the parties to bear their own costs.

.....CJI.

(T.S. THAKUR)

.....J.

(UDAY UMESH LALIT)

NEW DELHI

DATED 23 rd

FEBRUARY, 2016.

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ITEM NO.10

COURT NO.1

SECTION XI

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 (C) No(s). 5060/2008

(Arising out of impugned final judgment and order dated 16/11/2007

in WP No. 18871/2006 passed by the High Court Of Judicature at Allahabad)

JAI VIR SINGH

Petitioner(s)

VERSUS

STATE OF U.P.& ANR.

Respondent(s)

(with appln. (s) for compliance of order and permission to submit additional document(s) and interim relief and office report)

(For Final Disposal)

WITH SLP(C) No. 13694/2008 (With Office Report)

Date: 23/02/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Subramonium Prasad, Sr. Adv.

(SLP 5060/2008) Mr. Prashant Kumar, Adv.

Mr. Joseph, Adv.

For M/s. AP & J Chambers, Adv.

(SLP 13694/2008) Mr. Ashok K. Srivastava, Adv.

For Respondent(s)

Mr. Ashok K. Srivastava, Adv.

Mr. Ravindra Kumar, Adv.

Mr. Prashant Kumar, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

In terms of the signed order Civil Appeal No.1682 of 2016 is allowed and cross appeal, Civil Appeal No.1683 of 2016, filed by the High Court shall stand dismissed leaving the

parties to bear their own costs.

(MAHABIR SINGH)

COURT MASTER

(Signed order is placed on the file)

(VEENA KHERA)

COURT MASTER