

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS, 180-183 OF 2002

Union of India & Anr.

....Appellants

VERSUS

Smt. Suman Rajvedi & Ors.

....Respondents

ORDER

Heard the learned counsel on either side.

These appeals are before us on a Certificate granted by a division bench of the High Court of Allahabad at Lucknow under Article 133(1) of the Constitution of India to appeal to this Court against the common Judgment dated 08.02.1979. The leave was granted in the context of then prevailing difference of opinion between the judgment rendered by the High Court of Delhi reported in AIR 1973 Delhi 169 (Raj Singh Vs. Union of India) and the other view, taken by the High Court of Allahabad in the decision reported in 1974 ALJ 43 (Bhagwanti vs. President of India).

The question involved for consideration turn on the scope and purport of a clause providing for resumption of the grant by the Government known as "old grant" as defined under the Government Grants Act, 1895 and the controversy in as to whether the payment of the value of the buildings authorised to be constructed on the land was a condition precedent like the giving of one months notice, for taking possession of the property. The Allahabad High Court's view was that the payment also is a condition precedent, as against the one taken by the Delhi High Court that the right to take possession after the service of notice of one month does not get postponed or delayed till the compensation to determined and also paid and that the exercise of power of resumption is not conditioned upon likewise.

Subsequently, the matter has come up before this Court in Civil Appeal No.1868 of 1979 (Union of India & Ors Vs. Sri Harish Chand Anand (D) through L.Rs.) wherein this Court on 17.01.2002 has affirmed the view taken by the High Court of Delhi and disapproved of the view of the High Court of Allahabad by observing as follows:-

"In other words the determination of compensation after hearing the affected parties,

though mandatory, is not a condition precedent for the exercise of power of resumption. The resultant position that emerges is that the question formulated earlier has to be answered in the negative and the writ petition is liable to be dismissed."

Such a view came to be taken following the earlier decisions of this Court reported in 1999(3) SCC 505 : Union of India & Anr. Vs. Tek chand & Ors. and 2001 (2) SCALE 58 : Smt. Chitra Kumari Vs. Union of India and Ors.

In the light of the above, the appeals are allowed and consequently, the writ petitions before the High Court shall stand dismissed. At the same time, there shall be a direction to the competent authorities to determine the compensation payable to the respondents in accordance with law, after hearing the parties expeditiously and within a period of six months from the date of receipt of copy of this order. Parties shall bear their own constn.

Sd/-

(DORAISWAMY RAJU)

New Delhi

November 12, 2002

Sd/-

(SHIVARAJ V. PATIL)