

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NOS. 2694-2700 OF 2023
(Arising out of SLP (C) Nos. 2785-2791 of 2019)

SHIVAPPA ETC. ETC.

...APPELLANT(S)

VERSUS

THE CHIEF ENGINEER AND OTHERS ...RESPONDENT(S)

WITH

CIVIL APPEAL NO. 2701 OF 2023
(Arising out of SLP (C) No. 7451 of 2023)
[@DIARY NO. 5350 OF 2021]

J U D G M E N T

B.R. GAVAI, J.

CIVIL APPEAL NOS. 2694-2700 OF 2023

1. Leave granted.
2. This Court had issued limited notice with regard to the reduction of compensation from Rs.4,61,250/- to Rs.4,15,000/- per acre.
3. We have heard Mr. Anand Sanjay M. Nuli and Mr. Sharanagouda Patil, learned counsel appearing on behalf of the appellants and Mr. Navin R. Nath, learned Senior Counsel appearing on behalf of the

respondents.

4. Learned counsel for the appellants submits that the learned Reference Court, by an elaborated reasoning, had awarded the compensation at the rate of Rs.4,61,250/- per acre vide its order dated 14th March 2012. He further states that there is no reason for the High Court to reduce it to Rs. 4,15,000/- per acre.

5. Mr. Navin R. Nath submits that the order impugned herein was passed on the basis of the order passed by the High Court in MFA No. 31613 of 2012 decided on 8th January 2015. He submits that the Special Leave Petition being SLP(C) Diary No. 4490 of 2017 challenging the same has been dismissed *in limine* by this Court vide order dated 26th March 2018 and as such, the said judgment and order dated 8th January 2015 has attained finality. He, therefore, submits that no interference is warranted in the present case.

6. By now, it is a settled principle of law that the dismissal of the special leave petition *in limine* does not amount to affirmation of the view taken by the High Court. Unless the judgment of the High Court is affirmed, at least, with short reasoning, the same would not amount to binding precedent.

7. It would be seen that learned Reference Court by discussing the entire evidence, has granted compensation at the rate of

Rs.4,61,250/- per acre.

8. Another factor that needs to be taken into consideration is that the respondent-State itself had filed applications before the High Court for withdrawal of nine appeals arising out of acquisition under the same notification.

9. In the said case also, the Reference court had granted compensation at the rate of Rs. 4,61,250/- per acre. The High Court, vide order dated 08.03.2016 has allowed the said appeal(s) to be withdrawn and the same had been placed on record before this Court in I.A. No. 59170 of 2016. Though a period of more than six years had lapsed, the said position is not contested by the respondents.

10. The State or its instrumentalities cannot be permitted to adopt an attitude of pick and choose.

11. If the State has accepted the award of the Reference Court in respect of some of the claimants, it cannot be permitted to adopt a different treatment to the other claimants. Such an attitude smacks of patent discrimination.

12. In that view of the matter, we are inclined to allow the appeals. The impugned judgment and order dated 20th January 2015 passed by the High Court is set aside and the order of the Reference Court dated 14th March 2012 is restored.

13. Pending application(s), if any, stand(s) disposed of.

CIVIL APPEAL NO. 2701 OF 2023

1. Delay condoned.

2. Leave granted.

3. In view of order passed by this Court in Civil Appeals arising out of SLP (C) Nos. 2785-2791 of 2019, this appeal is also allowed on the same terms.

4. However, the appellant would not be entitled to interest for the delayed period in filing the appeal.

5. Pending application(s), if any, stand(s) disposed of.

.....J.
(B.R. GAVAI)

.....J.
(ARAVIND KUMAR)

**NEW DELHI;
APRIL 11, 2023**

ITEM NO.2

COURT NO.8

SECTION IV-A

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). 2785-2791 of 2019

SHIVAPPA ETC. ETC.

Appellant(s)

VERSUS

THE CHIEF ENGINEER & ORS.

Respondent(s)

WITH

Diary No. 5350 OF 2021
(IA No. 99142/2021 - CONDONATION OF DELAY IN FILING)

Date : 11-04-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s)

Mr. Sharanagouda Patil, Adv.
Mrs. Supreeta Patil, Adv.
M/S. S-Legal Associates, AOR

Mr. Anand Sanjay M Nuli, Adv.
Mr. Suraj Kaushik, Adv.
Mr. Dharam Singh, Adv.
Mr. Nanda Kumar K B, Adv.
Ms. Akhila Wali, Adv.
Mr. Shiva Swaroop, Adv.
M/S. Nuli & Nuli, AOR

For Respondent(s)

Mr. Naveen R. Nath, Sr. Adv.
Mr. Abhimanyu Verma, Adv.
Ms. Lalit Mohini Bhat, Adv.
Ms. Hetu Arora Sethi, AOR

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

1. Delay condoned.
2. Leave granted.

2. The appeals are allowed in terms of the signed order.
3. Pending application(s), if any, stand(s) disposed of.

(DEEPAK SINGH)

COURT MASTER (SH)

(ANJU KAPOOR)

COURT MASTER (NSH)

[Signed order is placed on the file]