

UNION OF INDIA AND ANR.

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v.

THE SPECIAL LAND ACQUISITION OFFICER & ORS.

SEPTEMBER 2, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

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*Land Acquisition Act, 1894 :*

*Sections 18,23(1)—Compensation determined by the Land Acquisition Officer—State is bound by the award—State cannot impeach the award as being excessive of the prevailing market value as on the date of notification—Reference does not lie—Tenancy rights—Right to compensation—Rejected by the High Court—Open to the tenants to agitate the remedy in appeal.*

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CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)  
No. 16514 of 1996.

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From the Judgment and Order dated 24.6.96 of the Bombay High Court in N.M. No. 156/96 in W.P. No. 1733 of 1994.

Altaf Ahmed, Additional Solicitor General, N. Goswami, A.D.N. Rao and Mrs. Anil Katiyar for the Petitioners.

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The following Order of the Court was delivered :

Admittedly, the petitioner is in possession of land admeasuring about 848.67 sq. mtrs. being plot No. 53-A of scheme No. 52, Worli Estate in Greater Bombay as a tenant. The landlady, Mrs. Jerbanoo Khurshad Jehangiur Cursetji and her husband Dr. K.J. Khurshad filed a writ petition in the High Court for a direction whether the petitioner would acquire the land or surrender possession to them so that they would develop the land on their own accord. In the Writ Petition No. 1733/94, the High Court had directed by order dated August 16, 1994 to take a decision whether the petitioner would proceed with the acquisition. In that event, direction was given to the Collector to take necessary action for acquiring the land within four months from the date of the said order. Accordingly, notification came to be published under the Land Acquisition Act, 1894 on February 23, 1995 and award enquiry was conducted. The Land Acquisition Officer in his

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- A award dated May 30, 1995 determined the compensation at the rate of Rs. 8300 per sq. ft. for the land in question and determined the total compensation at Rs. 7,57,92,954 along with other compensation for other lands with which we are not concerned. Since the amount was not paid, the respondents have taken motion in the above writ petition being motion No. 156/96. The Division Bench has directed the petitioners to deposit the amount by June 30, 1996, which we are informed, was extended to October 1, 1996.

- C Shri N.N. Goswami, learned senior counsel for the petitioner, sought to contend that the Land Acquisition Officer has determined compensation arbitrarily and, therefore, it is not a reasonable rate of compensation which the lands are capable to fetch. Alternatively, he contended that since the petitioners have been continuing in occupation as tenants, they are also entitled to *pro rata* compensation for the tenancy rights held by the petitioners and that the Land Acquisition Officer, therefore, has not properly considered the same. As far as the first point is concerned, we find absolutely no merit. The award of the Collector is an offer made on behalf of the State and, therefore, under law, the State cannot question the correctness of the award determined by the Land Acquisition Officer. The State is bound by the same. Under these circumstances, they cannot impeach the award of the Collector as being excessive of the prevailing market value as on the date of the notification. There is no law applicable to the petitioners that they are entitled to seek any reference under Section 18 as regards the rate of compensation determined under Section 23(1) of the Act. Only in the State of U.P. by the local amendment, such a right to the State to seek reference under Section 18 (3) was conferred upon the Commissioner. No such similar law is existing under Act 1 of 1894.

- F He states that the Government have filed another writ petition which was dismissed on August 30, 1996 in which they claimed the right to compensation awarded by the Collector towards their tenancy rights. If that be so, it would be open to them to agitate the remedy in that behalf in an appeal filed against that order in the writ petition or in any appropriate proceedings arising thereunder. We do not find any illegality in the impugned order.

The special leave petition is accordingly dismissed.