SUPREME COURT OF AZAD JAMMU AND KASHMIR

[Appellate Jurisdiction]

PRESENT:

Mohammad Azam Khan, C.J.

Raja Saeed Akram Khan, J.

1. Civil Appeal No. 88 of 2015
(Filed on 29.4.2015)

Water and Power Development Authority (WAPDA), WAPDA House, Lahore, through Director (Legal) House Lahore.

.... APPELLANT

VERSUS

1. Maqbool Ahmed, s/o Muhammad Abdullah, caste Jat, r/o Mawah, Tehsil and District, Mirpur.

..... RESPONDENT

2. Collector Land Acquisition Mangla Dam Raising Project Zone-1, Mirpur.
3. Chief Evaluator Mangla Joint Venture Mangla Dam, Raising Project Mangla.
4. Azad Government through its Chief Secretary, AJK Muzaffarabad.

..... PROFORMA RESPONDENTS

(On appeal from the judgment and decree of the High Court dated 12.2.2015 in Civil Appeal No. 55 of 2011)

FOR THE APPELLANT: Haji Ch. Muhammad Afzal, Advocate.

FOR THE RESPONDENTS: Mr. Muhammad Ramzan Dutt, Advocate.

2. Civil Appeal No. 89 of 2015
(Filed on 29.4.2015)

Water and Power Development Authority (WAPDA), WAPDA House, Lahore, through Director (Legal) House Lahore.

.... APPELLANT

VERSUS

1. Manzoor Hussain, son,
2. Barkat Bi, widow of Muhammad Abdullah, caste Jat, r/o Mawah, Tehsil and District, Mirpur.

..... RESPONDENTS

2. Collector Land Acquisition Mangla Dam Raising Project Zone-1, Mirpur.
3. Chief Evaluator Mangla Joint Venture Mangla Dam, Raising Project Mangla.
4. Azad Government through its Chief Secretary, AJK Muzaffarabad.

..... PROFORMA RESPONDENTS

(On appeal from the judgment and decree of the High Court dated 12.2.2015 in Civil Appeal No. 55 of 2011)

FOR THE APPELLANT: Haji Ch. Muhammad Afzal, Advocate.

FOR THE RESPONDENTS: Mr. Muhammad Ramzan Dutt, Advocate.

1. Civil Appeal No. 90 of 2015
(Filed on 29.4.2015)

Water and Power Development Authority (WAPDA), WAPDA House, Lahore, through Director (Legal) House Lahore.

.... APPELLANT

VERSUS

1. Muhammad Masood s/o Muhammad Raasheed, caste Jat, r/o Mawah, Tehsil and District, Mirpur.

..... RESPONDENT

2. Collector Land Acquisition Mangla Dam Raising Project Zone-1, Mirpur.
3. Chief Evaluator Mangla Joint Venture Mangla Dam, Raising Project Mangla.
4. Azad Government through its Chief Secretary, AJK Muzaffarabad.

..... PROFORMA RESPONDENTS

(On appeal from the judgment and decree of the High Court dated 12.2.2015 in Civil Appeal No. 55 of 2011)

FOR THE APPELLANT: Haji Ch. Muhammad Afzal, Advocate.

FOR THE RESPONDENTS: Mr. Muhammad Ramzan Dutt, Advocate.

3. Civil Appeal No. 91 of 2015
(Filed on 29.4.2015)

Water and Power Development Authority (WAPDA), WAPDA House, Lahore, through Director (Legal) House Lahore.

.... APPELLANT

VERSUS

1. Muhammad Rasheed s/o Fazal Elahi, caste Jat, r/o Mawah Tehsil District, Mirpur.

..... RESPONDENT

2. Collector Land Acquisition Mangla Dam Raising Project Zone-1, Mirpur.
3. Chief Evaluator Mangla Joint Venture Mangla Dam, Raising Project Mangla.
4. Azad Government through its Chief Secretary, AJK Muzaffarabad.

..... PROFORMA RESPONDENTS

(On appeal from the judgment and decree of the High Court dated 12.2.2015 in Civil Appeal No. 55 of 2011)

FOR THE APPELLANT: Haji Ch. Muhammad Afzal, Advocate.

FOR THE RESPONDENTS: Mr. Muhammad Ramzan Dutt, Advocate.

Date of hearing: 22.12.2016

JUDGMENT:

Mohammad Azam Khan, C.J— The titled four appeals by leave of the Court arise out of the single judgment of the High Court dated 12th February, 2015, whereby the appeals filed by the respondents, herein, have been accepted. Identical question of law and facts is involved in all the appeals, therefore, these are being disposed of through a single judgment.

2. The built-up property of the land owners was acquired for Mangla Dam Raising project through award No. 485/2009 drawn on 16th November, 2009. Dissatisfied from the compensation, the land owners filed four reference applications before the Collector, Mangla Dam Raising Project. The application was entrusted to the Reference Judge, Mangla Dam Raising Project. The learned Reference

Judge, enhanced the compensation. The land owners filed appeals in the High Court. The appeals were accepted through the impugned judgment on 12th February, 2015, hence, these appeals.

3. Haji Ch. Muhammad Afzal, Advocate, the learned counsel for the appellants, argued that the High Court has delivered the impugned judgment and passed the decree without summoning and hearing the appellant, as such, the judgment is not maintainable.

4. While controverting the arguments, Mr. Muhammad Ramzan Dutt, Advocate, the learned counsel for the private respondents, argued that the appellants were represented by their counsel in the High Court, as such, non-service upon the respondent is not material. He requested for dismissal of appeals.

5. After hearing the counsel for the parties we have perused the record. All the four files were placed before the learned Chief Justice in the High Court on 6th June, 2011. The

learned Chief Justice, ordered for notice and record and the case was fixed on 25.8.2011. The order dated 25th August, 2011 was passed by the Assistant Registrar, who has ordered ex-parte proceedings against respondents No. 1, 2 and 4 and respondent No.3 is shown through present representative. We have perused the notice sent to the respondents. One notice was sent to respondent No.1, 2 and 4. The Process Server has reported that the service has been affected through Clerk. The WAPDA has been impleaded through Chairman WAPDA, WAPDA House, Lahore. Service has been affected upon the Clerk of the Chief Engineer Mangla Dam, Raising Project Mangla. This is no service at all upon WAPDA. Without hearing a party and without notice, adjudication upon the matter is against the law. The learned Judge in the High Court while disposing of the appeals has entered the presence of Sidra Latif, Advocate for respondent No.3 to 5, while there is no power of attorney (وکالت نامہ) of this counsel on the record.

6. In these circumstances, we are constrained to accept these appeals and remand the case to the High Court for decision after hearing the counsel for WAPDA and other respondents. Since, Haji Ch. Muhammad Afzal, has entered appearance on behalf of WAPDA and others, therefore, there will be no need for fresh notice upon WAPDA. He shall arrange representation of WAPDA authorities in the High Court. As the award was drawn in the year 2009, a period of round about seven years has passed, therefore, we direct the High Court that it shall decide all the four appeals within a period of two months from the receipt of record.

CHIEF JUSTICE JUDGE

Mirpur.
22.12.2016.