

SUPREME COURT OF AZAD JAMMU AND KASHMIR

[Appellate Jurisdiction]

PRESENT:

Ch. Muhammad Ibrahim Zia, C.J.
Ghulam Mustafa Mughal, J

1. Civil Appeal No.256 of 2018
(PLA filed on 01.10.2018)

1. WAPDA through Director Legal WAPDA, WAPDA, House Lahore;
2. Chief Engineer, Mangla Dam Raising Project, Mangla, Mirpur A.K. through Director Legal WAPDA, WAPDA House Lahore;
3. Superintending Engineer Resettlement, Mangla Dam raising Project, Mangla, Mirpur AK, through Director Legal WAPDA, WAPDA Housing Lahore

. APPELLANTS

VERSUS

1. Muhammad Nazir s/o Nazam Din;
2. Mukthar Begum, Widow,
3. Arfan Malik, son.
4. Kaneez Akhtar,
5. Shameem Akhtar d/o Muhammad Malik.
6. Fazal Kareem s/o Badar Din.
7. Ghulab Begum d/o Kareem Bakhsh.
8. Sabir Hussain, son.
9. Maqsood Begum,
10. Tazeem Akhtar daughters of Karam Elahi.
11. Karamat Hussain, son.
12. Farzand Begum d/o Nazam Din through Muhammad Nazir attorney, r/o Village Onah, Tehsil Dadyal and District Mirpur A.K.
13. Raja Imtiaz Ahmed, Court Auctioneer, Judge MDA Appellate Tribunal Mirpur, A.K.

....RESPONDENTS

14. The Collector Land Acquisition Mangla Dam Raising Project, Mirpur Zone, Mirpur AK.

....PROFORMA RESPONDENT

[On appeal from the judgment of the High Court dated 27.07.2018 in revision petitions Nos. 76 to 79, 213, 214, 13 of 2017 & 14 to 50, 71 & 74 of 2018]

FOR THE APPELLANTS: Mr. Javaid Najum-us-Saqib, Advocate.

FOR THE RESPONDENTS: Sardar M. Azam Khan, Advocate.

2. Civil Appeal No.257 of 2018
(PLA filed on 01.10.2018)

1. WAPDA through Director Legal WAPDA, WAPDA, House Lahore;
2. Chief Engineer, Mangla Dam Raising Project, Mangla, Mirpur A.K. through Director Legal WAPDA, WAPDA House Lahore;
3. Superintending Engineer Resettlement, Mangla Dam raising Project, Mangla, Mirpur AK, through Director Legal WAPDA, WAPDA Housing Lahore

.... APPELLANTS

VERSUS

1. Taj Begum, widow Muhammad Gulzar Hussain (d/o Fazal Kareem).
2. Nisar Ahmed,
3. Izrar Ahmed, sons.
4. Sumera Iftikhar,

5. Zeheda Gulzar, daughters of Gulzar Hussain caste Jatt, r/o Village Sangot, Tehsil and District Mirpur A.K.
6. Raja Imtiaz Ahmed, Court Auctioneer, Judge MDA Appellate Tribunal Mirpur A.K.

....RESPONDENTS

7. Azad Govt. through the Chief Secretary of AJ&K, Muzaffarabad.
8. The Collector Land Acquisition Mangla Dam Raising Project, Mirpur Zone, Mirpur A.K.
9. The Commissioner Mangla Dam Affaris, Mirpur.

....PROFORMA RESPONDENTS

[On appeal from the judgment of the High Court dated 27.07.2018 in revision petitions Nos. 76 to 79, 213, 214, 13 of 2017 & 14 to 50, 71 & 74 of 2018]

FOR THE APPELLANTS: Mr. Javaid Najum-us-Saqib, Advocate.

FOR THE RESPONDENTS: Ch. Muhammad Afzal, Advocate.

3. Civil Appeal No.258 of 2018
(PLA filed on 01.10.2018)

1. WAPDA through Director Legal WAPDA, House Lahore.
2. Chief Engineer, Mangla Dam Raising Project, Mangla, Mirpur A.K. through Director Legal WAPDA, WAPDA, House Lahore.
3. Superintending Engineer Resettlement, Mangla Dam Raising Project, Mangla, Mirpur AK,

through Director Legal WAPDA, WAPDA, House
Lahore.

.....APPELLANTS

VERSUS

1. Muhammad Nazir,
2. Muhammad Aleyas,
3. Muhammad Bashir sons,
4. Qulzam Begum,
5. Noreen Akhtar,
6. Akhtar Begum, daughters of Gulzar Hussain r/o
village Phel Bakhshi Moal Raj, Tehsil and
District Mirpur, A.K.
7. Raja Imtiaz Ahmed, Court Auctioneer, Judge
MDA Appellate Tribunal, Mirpur, A.K.

.....RESPONDENTS

8. The Collector Land Acquisition Mangla Dam
Raising Project, Mirpur Zone, Mirpur A.K.

.....PROFORMA RESPONDENT

[On appeal from the judgment of the High Court
dated 27.07.2018 in revision petitions Nos. 76 to
79, 213, 214, 13 of 2017 & 14 to 50, 71 & 74 of
2018]

FOR THE APPELLANTS: Mr. Javaid Najum-us-
Saqib, Advocate.

FOR THE RESPONDENTS: Mr. Muhammad Younas
Arvi, Advocate.

4. Civil Appeal No.259 of 2018
(PLA filed on 01.10.2018)

1. WAPDA through Director Legal WAPDA, WAPDA House, Lahore.
2. Chief Engineer, Mangla Dam Raising Project Mirpur through Director Legal WAPDA, WAPDA House, Lahore.
3. Superintending Engineer Resettlement, Mangla Dam Raising Project, Mangla, Mirpur through Director Legal WAPDA, WAPDA House, Lahore.

.....APPELLANTS

VERSUS

1. Arshad Mehmood,
2. Tariq Mehmood, sons,
3. Sarwar Begum,
4. Maqsood Akhtar,
5. Tazeem Akhtar,
6. Kalsoom Akhtar,
7. Nasreen Akhtar daughters of Malik Lal Khan, caste Awan, r/o village Sanghot, Tehsil and District Mirpur.
8. Raja Imtiaz Ahmed, Court Auctioneer, Judge MDA, Appellate Tribunal, Mirpur.

.....RESPONDENTS

9. Azad Government through the Chief Secretary of AJ&K, Muzaffarabad.
10. The Collector Land Acquisition Mangla Dam Raising Project, Mirpur Zone, Mirpur.
11. The Commissioner Mangla Dam Affairs, Mirpur.

.... PROFORMA RESPONDENTS

[On appeal from the judgment of the High Court dated 27.07.2018 in revision petitions Nos. 76 to 79, 213, 214, 13 of 2017 & 14 to 50, 71 & 74 of 2018]

FOR THE APPELLANS: Mr. Javaid Najum-us-Saqib, Advocate.

FOR THE RESPONDENTS: Sardar Ejaz Nazir, Advocate.

5. Civil Appeal No.260 of 2018
(PLA filed on 01.10.2018)

1. WAPDA through Director Legal WAPDA, WAPDA, House Lahore;
2. Chief Engineer, Mangla Dam Raising Project, Mangla, Mirpur A.K. through Director Legal WAPDA, WAPDA House Lahore;
3. Superintending Engineer Resettlement, Mangla Dam raising Project, Mangla, Mirpur AK, through Director Legal WAPDA, WAPDA Housing Lahore

. APPELLANTS

VERSUS

1. Malik Muhammad Yousaf,
2. Maroof Hussain,
3. Mehmood Hussain, sons.
4. Sarwar Begum,
5. Aymna Bi Widow of Muhammad Sadiq,
6. Khan Muhammad caste Awan r/o Village Sanghot, Tehsil & District Mirpur A.K.
7. Raja Imtiaz Ahmed, Court Auctioneer, Judge MDA Appellate Tribunal Mirpur A.K.

....RESPONDENTS

8. Azad Govt. through the Chief Secretary of AJ&K, Muzaffarabad.
9. The Collector Land Acquisition Mangla Dam Raising Project, Mirpur Zone, Mirpur A.K.
10. The Commissioner Mangla Dam Affaris, Mirpur.

....PROFORMA RESPONDENTS

[On appeal from the judgment of the High Court dated 27.07.2018 in revision petitions Nos. 76 to 79, 213, 214, 13 of 2017 & 14 to 50, 71 & 74 of 2018]

FOR THE APPELLANTS: Mr. Javaid Najum-us-Saqib, Advocate.

FOR THE RESPONDENTS: Sardar Ejaz Nazir, Advocate.

Date of hearing: 25.02.2020

JUDGMENT:

Ch. Muhammad Ibrahim Zia, C.J.– The land of respondent-landowners (decree holders) was acquired. The matter of determination of compensation stood finalized upto this Court. After finalization of the matter of compensation, the respondents filed separate applications for execution of decrees before the Reference Judge Mangla Dam Raising Project, Mirpur. The learned reference Judge ordered for attachment of land of appellants, which was accordingly attached. Thereafter, the learned reference Judge ordered for auction of the said property. The appellants approached by the High Court by filing revision

petitions, however, the same stood dismissed through the impugned judgment, hence, these appeals by leave of the Court.

2. Mr. Javaid Najam us Saqib, Advocate, the learned counsel for the appellants admitted that the decrees are final, however, for execution of the same some time is required to arrange funds. He placed on record the official communication, according to which the matter has been seriously taken up to the concerned quarters for providing funds and submitted that hopefully the needful shall be done within short span of time. He further argued that the executing Court has ordered for auction of hundred kanals of land which will create hardships and the production of electricity will also be affected, therefore, in the interest of justice the process of auction be recalled.

3. Conversely, Sardar Muhammad Azam Khan, Ch. Muhammad Afzal, Muhammad Younas Arvi and Sardar Ejaz Nazir, Advocates, the learned counsel for the respondent-landowners submitted that under the constitutional provisions the

respondents are entitled for compensation but they have been deprived from their constitutionally guaranteed fundamental rights since decade. The execution proceeding has also taken unnecessary period spreading over years. The appellants have got no legal justification to challenge the impugned judgment of the High Court as well as the orders passed by the executing Court, therefore, these appeals are liable to be dismissed.

4. We have heard the learned counsel for the parties and gone through the record. According to the admitted facts, the decrees passed against the appellants/judgment-debtor have been finalized and the matter of execution is also awaiting disposal since long. According to the submission of learned counsel for the appellants, the appellants are going to manage the required funds. As according to law the decrees have to be satisfied and it is not necessary that for satisfaction of the decree the property has to be surely auctioned, if the judgment debtors are agreed to manage the funds to satisfy the decrees, then auction is not

necessary. This aspect has also to be attended and resolved by the executing Court. In view of the stated facts, apparently there is no legal justification calling for interference in the impugned judgment, hence, these appeals have no substance.

5. So far as the submission of learned counsel for the appellants that they are managing the funds, thus, auction proceedings of the property of the appellants to be stayed, is concerned, in our view this proposition relates to the executing Court. The executing Court is directed to reasonably consider the submission of the appellants. If they manage the funds for satisfaction of the decrees, in that case the auction of the property is not required and for doing the needful the executing Court is also empowered to grant reasonable time, which power may also be exercised.

These appeals are disposed of in the above terms with no order as to costs.

CHIEF JUSTICE

JUDGE

Mirpur,
25.02.2020