

(7) Thus, the rule that widow from a marriage contracted by a retiree after his retirement from service shall not come within the definition of 'family' for the purposes of grant of family pension appears to be universal and is based on reasonable classification. I thus, find no force in the contention of the learned counsel for the petitioner that the provision to this effect is either discriminatory or unconstitutional.

(8) Consequently, I am constrained to disallow this writ petition which is, therefore, dismissed. The parties are, however, left to bear their own costs.

R.N.R.

Before V. Ramaswami, C.J. and Ujagar Singh, J.

SURJIT SINGH,—*Petitioner.*

versus

STATE OF PUNJAB and another,—*Respondents.*

Civil Misc. No. 508-CI. of 1986 in R.F.A. No. 1623 of 1978

January 14, 1988.

Constitution of India, 1950—Article 136—Land Acquisition Amendment Act (LCVIII of 1984)—Section 30(2)—Amended provision—Benefit of—Pendency of proceedings—Meaning of—Special Leave Petition in Supreme Court—Scope of—Whether a proceeding pending.

Held, that Article 136 of the Constitution of India, 1950 has vested in the Supreme Court power to entertain on appeal in its discretion by granting special leave from any judgment, decree, determination, sentence or order in any case or matter passed by any Court or tribunal in the territory of India. Thus, the Supreme Court could have entertained an appeal from the judgment of this Court in L.P.A. No. 281 of 1981. The petition filed involving the jurisdiction of the Supreme Court under Article 136 of the Constitution is, therefore, clearly a proceeding pending within the meaning of Section 30 of the Land Acquisition (Amendment Act), 1984. The mere fact that it is a discretion vested in the Supreme Court to grant special leave, it could not be said that the proceedings were not pending.

(Para 1).

Surjit Singh v. State of Punjab and another (V. Ramaswami, C.J.)

Application under section 151/152 of the Code of Civil Procedure read with section 30 of the Land Acquisition Act 68 of 1984 praying that in accordance with the provisions of section 30(2) of the Land Acquisition Amendment Act 68 of 1984 the solatium paid to the petitioner-appellant in respect of his land acquired may be enhanced to 30 per cent and interest to 15 per cent.

Gurbachan Singh, Advocate, for the Petitioner.

H. S. Bedi, Additional A.G. (Pb.), for the Respondent.

ORDER

V. Ramaswami, C.J.—(Oral).

(1) It is stated that against the decision in L.P.A. No. 281 of 1981, Special Leave Petition No. 6593 of 1981 was filed in the Supreme Court, which was dismissed on January 31, 1983, i.e., after April 30, 1982, and thus the petitioner was entitled to the benefit of the provisions of section 30(2) of the Land Acquisition (Amendment) Act, 1984. The only question for consideration now is whether the petition for special leave to appeal pending the Supreme Court should be considered to be a proceeding pending within the meaning of section 30 of the Land Acquisition (Amendment) Act, 1984. We have no doubt that it is a proceeding pending Article 136 of the Constitution has vested in the Supreme Court power to entertain an appeal in its discretion by granting special leave from any judgment, decree, determination, sentence or order in any case or matter passed or made by any Court or tribunal in the territory of India. Thus, the Supreme Court could have entertained an appeal from the judgment of this Court in L.P.A. No. 281 of 1981. The petition filed, invoking the jurisdiction of the Supreme Court under Article 136 of the Constitution is, therefore, clearly a proceeding pending within the meaning of section 30. The mere fact that it is a discretion vested in the Supreme Court to grant special leave, it could not be said that the proceedings were not pending. In fact even the admission of letters patent appeal is in the discretion of the High Court and on that ground the pending of the letters patent appeal cannot be considered to be not a proceeding within the meaning of section 30 of the Amending Act. We are therefore, of the opinion that the petitioner is entitled to the benefit of the provisions of section 30(2) of the Amending Act and accordingly we direct the amendment of the decree as prayed for in the petition. There will be an order accordingly.

P.C.G.