

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Judgment: 23.11.2011*

+ **CM (M) No. 568/2010**

SHRI HEM CHANDER Petitioner
Through: Mr. I.S. Dahiya and Mr. Sunil
Dahiya, Advocates.

Versus

UNION OF INDIA Respondent
Through: Sanjay Poddar, Sr. Advocate
with Mr. Sanjay Kumar Pathak,
Mr. Mohitrao Jadhav and Ms.
Navlin Swain, Advocates for
respondent No.1.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

INDERMEET KAUR, J. (Oral)

1. The issue to be decided is as to whether the interest on solatium under the Land Acquisition Act, 1894 (hereinafter referred to as the 'LAC Act') is payable in the instant case.

2. Arguments addressed by both the parties have been appreciated.

3. These proceedings were proceedings under the LAC Act. The impugned order is dated 14.05.2009. Certain dates are undisputed.

The Reference Petition under Section 18 of the LAC had been decided by the Reference Court on 25.05.2000. The Reference Court had enhanced the compensation to Rs.47,224/- per bigha. The decree was silent about interest on solatium. Execution proceedings were pending before the Executing Court when vide an application dated 13.02.2009, the applicant sought a reappropriation of the decretal amount; he had filed a review statement of account along with this application. On 14.05.2009, this application was accepted and in terms of the judgment reported in Gurpreet Singh Vs. Union of India (2006) 8 SCC 457, the Nazir was directed to calculate interest. Para 54 of the said judgment is relevant and reads herein as under:-

“One other question also was sought to be raised and answered by this Bench though not referred to it. Considering that the question arises in various cases

pending in Courts all over the country, we permitted counsel to address us on that question. That question is whether in the light of the decision in Sunder (supra), the awardee/decreed holder would be entitled to claim interest on solatium in execution though it is not specifically

granted by the decree. It is well settled that an execution court cannot go behind the decree. If, therefore, the claim for interest on solatium had been made and the same has been negatived either expressly or by necessary implication by the judgment or decree of the reference court or of the appellate court, the execution court will have necessarily to reject the claim for interest on solatium based on *Sunder (supra)* on the ground that the execution court cannot go behind the decree. But if the award of the reference court or that of the appellate court does not specifically refer to the question of interest on solatium or in cases where claim had not been made and rejected either expressly or impliedly by the reference court or the appellate court, and merely interest on compensation is awarded, then it would be open to the execution court to apply the ratio of *Sunder (supra)* and say that the compensation awarded includes solatium and in such an event interest on the amount could be directed to be deposited in execution. Otherwise, not. We also clarify that such interest on solatium can be claimed only in pending executions and not in closed executions and the execution court will be entitled to permit its recovery from the date of the judgment in *Sunder* (September 19, 2001) and not for any prior period. We also clarify that this will not entail any re-appropriation or fresh appropriation by the decree-holder.

This we have indicated by way of clarification also in exercise of our power under Articles 141 and 142 of the Constitution of India with a view to avoid multiplicity of litigation on this question.”

4. In terms thereof it is clear that in a pending execution interest on solatium can be claimed which the applicant had claimed and was rightly granted. However, the rider attached in para 54 of *Gurpreet Singh (Supra)* also states that this would not entail any reappropriation or fresh appropriation by the decree holder; meaning thereby that it is only the interest on solatium

which can be granted to the applicant/decreed holder. Contention of the petitioner that he should be granted interest under Section 28 of the LAC from the date of his dispossession is an argument without merit; the judgment of Gurpreet Singh (Supra) disentitles the petitioner even in pending execution to such any reappropriation or fresh appropriation of the decree. Petition is without any merit.

Dismissed.

INDERMEET KAUR, J.

NOVEMBER 23, 2011

A