

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

% *Date of Judgment: 23.11.2011*

+ **CM(M) No.1411/2010**

SHRI RAMPAT

.....Appellants

Through: Mr. I.S. Dahiya and Mr. Sunil
Dahiya, Advocates.

Versus

UNION OF INDIA

.....Respondent

Through: Mr. Sanjay Poddar, Sr.
Advocate with Mr. Sanjay
Kumar Pathak, Mr. Mohitrao
Jadhav and Ms. Navlin Swain,
Advocates for respondent.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

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. The order impugned is the order dated 20.4.2010 wherein certain facts are undisputed. The land was acquired vide a notification pursuant to which an Award was passed by the Land

Acquisition Collector (LAC). Dissatisfied with the assessment made by the LAC; reference petition under Section 18 of the LAC Act was filed by the decree holder which was disposed of on 8.04.1994. Execution was filed which was disposed of on 24.10.1998. Thereafter the petitioner claimed interest on the market value w.e.f. 24.10.1998 till payment of 20.12.2000. Impunged order had rejected this calim.

4. The decree in this case admittedly had not made any reference to interest on solatium or any additional amount; interest on compensation alone had been awarded. In this context the judgment of Gurpreet Singh Vs. Union of India (2006) 8 SCC 457 is holding the fort as on date on the question of interest on solatium. Its relevant extract reads as follows:

“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/decreree 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.”

5. This judgment was delivered on 19.10.2006 when admittedly no execution was pending. Contention of the decree holder is that his application dated 07.12.2004 was yet pending; even presuming that this be treated as a pending application, in view of the judgment of the ratio of *Gurmeet Singh* (supra) where the reference court or the appellant court has not specifically referred to the question of interest on solatium or in cases where the claim has not been made or rejected either expressly or impliedly by the reference court or the appellate court and merely interest on compensation is awarded then it will be open to

the executing court to apply the ratio of Sunder (supra) as the compensation awarded includes solatium and in such an event interest on the amount can be directed to be paid which would be only from the date of the judgment of Sunder (supra) i.e. from 19.9.2001 and not from any period prior thereto. Court had in fact noted that in this case the entire amount of solatium had already been paid to the decree holder prior to the judgment of Sunder (supra) which fact is undisputed. Impugned order dismissing the application of the decree holder thus suffers from no infirmity.

6. Petition is dismissed.

NOVEMBER 23, 2011
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INDERMEET KAUR, J.