

GAHC030000992023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP/2/2023

Union of India and Anr.
New Delhi

VERSUS

Smt. Lalmalsawmi and 178 Ors.
Kolasib, Mizoram

Advocate for the Petitioner : Mr. Sanjay Kumar Medhi

Advocate for the Respondent : Mr. Lalsawirema for R1-R3, R5-R49, R51-R52, R54-R69, R71-R87, R89-R103, R105-R117, R119-R126, R128-R145, R148-R159, R161-R163, R165-R170, R172-R177

Linked Case : WP(C)/19/2023

The Union of India and Anr.
r/b the General Manager (Con.)
N.F. Railway
Maligaon
Guwahati.

2: The Deputy Chief Engineer (Con)
N.F. Railway
Bairabi-Silchar
Tarapur
Silchar
Assam.
VERSUS

Smt. Lalmalsawmi and 178 Ors.

D/o Lalthansanga
R/o Aizawl.

2:Smt. F. Laldinpuii
D/o F. Vanlalchhuanga
R/o Kolasib.

3:Smt. Lalmalsawmi
D/o Lalthansanga
R/o Aizawl.

4:Smt. Sairengpuii
D/o Rivenga (L)
R/o Aizawl.

5:Sh. Lalrinchhana
S/o RT Luia
R/o Aizawl.

6:Sh. Lalthansanga
S/o Vanlalhruaia
R/o Aizawl.

7:Sh. Vanlalhriata
S/o PC Thanliana
R/o Aizawl.

8:Sh. Lalrinawma
S/o Thanthiana (L)
R/o Aizawl.

9:Sh. Lalthansanga
S/o Vanalhruaia
R/o Aizawl.

10:Sh. Lalthansanga
S/o Vanlalhruaia
R/o Aizawl.

11:Smt. Varziki
D/o Mankunga
R/o Aizawl.

12:Smt. VL Thafamkimi
D/o Lalhmingthanga
R/o Aizawl.

13:Smt. VL Thafamkimi

D/o Lalhmingthanga (L)
R/o Aizawl.

14:Sh. Lalrinawma
S/o Thanthianga
R/o Aizawl.

15:Smt. Varzkiki
D/o Mankunga
R/o Aizawl.

16:Smt. F. Laldinpuii
D/o F. Vanlalchhuanga
R/o Kolasib.

17:Sh. Lalrohlua
S/o Vanlalhruaia
R/o Aizawl.

18:Smt. Lalmalsawmi
D/o Lalthansanga
R/o Aizawl.

19:Sh. Lalrinchhana
S/o RT Luia
R/o Aizawl.

20:Sh. Vanlalhriata
S/o PC Thanliana
R/o Aizawl.

21:Sh. Lalrohlua
S/o Vanlalhruaia
R/o Aizawl.

22:Smt. Thangzuali
D/o Thankima (L)
R/o Bhairabi.

23:Smt. Lalhmunliani
D/o Lalzahawma
R/o Bhairabi.

24:Sh. H. Lalrinkima
S/o H. Lalmuanpuia
R/o Bhairabi.

25:Sh. Lalpiangthanga

S/o Biakthuama
R/o Bhairabi.

26:Sh. Saikunga
S/o Renghnuna
R/o Bhairabi.

27:Sh. Sapzuithanga
S/o Sapchhawna
R/o Bhairabi.

28:Smt. Darthangpuii
D/o Lalnghakliana
R/o Bhairabi.

29:Sh. D. Lalnghakliana
S/o Laltawna (L)
R/o Bhairabi.

30:Smt. J. Lalhmangaihzuali
D/o Dingliana
R/o Bhairabi.

31:Sh. C. Lalchhuansawma
S/o CL Biakliana
R/o Bhairabi.

32:Sh. F. Lalmawia
S/o Zachhunga
R/o Bhairabi.

33:Sh. Rosiamliana
S/o Tawna
R/o Bhairabi.

34:Smt. Chhuangi
D/o Rosiama (L)
R/o Bhairabi.

35:Sh. Hrangchungnunga
S/o Lalhleia
R/o Bhairabi.

36:Sh. H. Hmangaihzuala
S/o lalbela
R/o Bhairabi.

37:Sh. J. Lalruatfela

S/o J. Vanlalmuana
R/o Kolasib.

38:Smt. J. Hmangaihzuali
D/o Dingliani
R/o Bhairabi.

39:Sh. Samuel Lalrindika
S/o J. Biakhluna
R/o Bhairabi.

40:Sh. Laldinpuia Ralte
S/o R. Romawia
R/o Bhairabi.

41:Sh. H. Lalmuanpuia
S/o Laltiankima (L)
R/o Bhairabi.

42:Sh. Lalhminthanga
S/o R. Rodingliana
R/o Bhairabi.

43:Sh. Lalmawia
S/o Zachhunga (L)
R/o Bhairabi.

44:Smt. R. Malsawmi
D/o Rodingliana (L)
R/o Bhairabi.

45:Sh. D. Lalnghakliana
S/o Laltawna (L)
R/o Bhairabi.

46:Smt. Lalniengvari
D/o Thanhnuna
R/o Bhairabi.

47:Sh. J. Lalchhuanawma
S/o Thanhnuna
R/o Bhairabi.

48:Smt. Cicilia Zohmingsangi
D/o J. Muana
R/o Bhairabi.

49:Smt. A. Romawii

D/o R. Laliana
R/o Bhairabi.

50:Sh. P. Sanglura
S/o Biakthanga
R/o Bhairabi.

51:Sh. Laldinpuia Ralte
S/o R. Romawia
R/o Bhairabi.

52:Sh. Lalbiaknunga
S/o Lalthianghlina
R/o Bhairabi.

53:Sh. Lalrinliana
S/o Lalphuta
R/o Bhairabi.

54:Smt. Saipari
D/o C. Tlanghmingthanga
R/o Bhairabi.

55:Smt. A. Ralkapthangi
D/o D. Lalnghakliana
R/o Bhairabi.

56:Sh. Lalpianthanga
S/o R. Laliana
R/o Bhairabi.

57:Sh. PC Vanlalpianzuia
S/o Zotahngpuia
R/o Bhairabi.

58:Sh. Rosiamliana
S/o Vanlaltawna
R/o Bhairabi.

59:Smt. Zosngkimi
D/o Zoramthaia
R/o Bhairabi.

60:Smt. Melody Vanlalmangaihzuai
D/o Zalawma
R/o Bhairabi.

61:Sh. C. Lalbiakmawia

S/o Hualrokima (L)
R/o Bhairabi.

62:Sh. Rosiami
D/o Thangbuaia (L)
R/o Bhairabi.

63:Smt. C. Vanllallawmi
D/o HT Zauva
R/o Bhairabi.

64:Sh. Lalrokima
S/o Lalphuta
R/o Bhairabi.

65:Smt. Vanlalhmuaki
D/o Saplana
R/o Bhairabi.

66:Sh. H. Vanlaldika
S/o Lalthankima (L)
R/o Bhairabi.

67:Sh. Laldinpuia Ralte
S/o R. Romawia
R/o Bhairabi.

68:Sh. S. Vanlalmawia
S/o Thaimkima
R/o Bhairabi.

69:Sh. Josepha
S/o Vanllallawma
R/o Bhairabi.

70:Sh. Lalrinawma
S/o Thuamlia
R/o Bhairabi.

71:Sh. Raltawnzela
S/o Nghaka (L)
R/o Bhairabi.

72:Sh. Lalengmawia
S/o Chalngenga
R/o Hunthar
Aizawl.

73:Smt. Hmingthanmawii
S/o C. Lalrinchhana
R/o Kawnpui
C/o District Collector
Kolasib.

74:Smt. Lalrotluangi
S/o C. Biakringa
R/o Bengloi
Kolasib.

75:Smt. Thangmingliani
D/o KT Vunga
R/o Kawnpui.

76:Sh. Vanlaltluanga
S/o Biakmawia
R/o Kawnpui.

77:Sh. Lalchhanhima
S/o Changliana
R/o Kawnpui.

78:Smt. Lalzawmpuii
D/o TC Rohmingliana
R/o Kawnpui.

79:Smt. Rohlupuii
D/o Pianruala
R/o Bawngkawn.

80:Sh. Lalrinfela
S/o Sri Tlanhnuna
R/o Kawnpui.

81:Sh. Rosanglina
S/o Rodingliana
R/o Kawnpui.

82:Smt. T. Lalrindiki
D/o Rosangliana
R/o Kawnpui

83:Smt. Darthansangi
D/o Darzawnga
R/o Kawnpui.

84:Sh. Lalnuntluanga

S/o C. Lalengmawia
R/o Kawnpui.

85:Sh. C. Lalrinchhana
S/o Changliana
R/o Kawnpui.

86:Smt. Zonunsiami
D/o Lalrovi
R/o Kolasib
C/o District Collector
Kolasib.

87:Smt. Thanghmingliani
D/o KT Vunga
R/o Kawnpui.

88:Sh. Jacob VL Ruata
S/o Parlana
R/o Kolasib.

89:Sh. LT Muana
S/o Lalthangvunga
R/o Kawnpui.

90:Sh. J. Lalhrualtuanga
S/o Thangninglova
R/o Kawnpui.

91:Smt. Lallianpuii
D/o Lalchuangkima
R/o Kawnpui.

92:Smt. Lalnunthari
D/o Engkunga
R/o Kawnpui.

93:Sh. LT Muana
S/o Lalthangvunga
R/o Kawnpui.

94:Sh. Lalrammawia
S/o Dawla
R/o Kawnpui.

95:Sh. Madika
S/o Lalkhuma
R/o Kawnpui.

96:Smt. Biaksiami
D/o Chhawna
R/o Kawnpui.

97:Sh. Thanchungnunga
S/o Thanhkira
R/o Kawnpui.

98:Sh. Lalhriatdika
S/o Lalramliana
R/o Kolasib.

99:Smt. Lalmangaihi
D/o Thankunga
R/o Kolasib.

100:Sh. Ramhluna
S/o Thangliana
R/o Kawnpui.

101:Sh. Lalmalsawma
S/o Hranglianmawia
R/o Chhimbeng

102:Smt. Laldikimi
D/o LT Muana
R/o Kawnpui.

103:Smt. Ngurthuli
D/o Rangkhuma
R/o Kawnpui.

104:Smt. R. Hmangaihzuai
D/o C. Malsawma
R/o Bengloi
Kolasib.

105:Smt. Vanlalgheti
D/o Chawngkhuma
R/o Mission Veng
Aizawl.

106:Sh. Zahlira
D/o C. Vawra
R/o Kawnpui.

107:Sh. H. Zarliana

S/o Saiduha
R/o Kawnpui.

108:Smt. Biakmawii
D/o H. Lalzarliana
R/o Kawnpui.

109:Sh. H. Lalzarliana
S/o Saidunga
R/o Kawnpui.

110:Smt. Helen Malsawmi
D/o Liankhuma
R/o Kawnpui.

111:Sh. Vanlalvena
S/o Chalnenga
R/o Kawnpui.

112:Sh. R. Zothanmawia
S/o Liankhuma
R/o Kawnpui.

113:Smt. Zohmingthangi
D/o Vanlalvena
R/o Kawnpui.

114:Smt. Lalduhawmi
D/o Vanlalmuana
R/o Kawnpui.

115:Sh. Vanlalliana
S/o Lallurha
R/o Kawnpui.

116:Sh. Lalawmsanga
S/o TC Lalenglina
R/o District Collector
Kolasib.

117:Sh. Lalrinkima
S/o Zorama
R/o Mualvum.

118:Sh. Lalrinchhana
S/o Kaptama
R/o Kawnpui.

119:Sh. Lalremruatkima
S/o Lalrinchhana
R/o Lawnpui.

120:Smt. Lalhmingmawii
D/o Ramfangzauvi
R/o Lawnpui.

121:Sh. Liankhuma
S/o Dawnkima (L)
R/o Kawnpui.

122:Sh. Lalramsiamia
S/o Vanlalmuan
R/o Kawnpui.

123:Sh. C. Lalrinchhana
S/o Changena
R/o Kawnpui.

124:Sh. R. Lalchhanliana
S/o R. Sangliana
R/o Kawnpui.

125:Sh. Lalduhawma
S/o Vanlalliana
R/o Kawnpui.

126:Sh. Vanlalchhunaga
S/o Vanlalliana
R/o Kawnpui.

127:Sh. Lalkima
S/o Lalduhawma
R/o Kawnpui.

128:Sh. Lalmuanzova
S/o VL Chhuanga
R/o Kawnpui.

129:Sh. Lalhmingmawia
S/o Laltanpuia
R/o Kawnpui.

130:Sh. Lalduhawma
S/o Vanlalliana
R/o Kawnpui.

131:Smt. Laldinthari
D/o Raltawna (L)
R/o Kawnpui.

132:Sh. Thangvela
S/o Rualkhuma
R/o Hortoki.

133:Sh. Liansangkima
S/o R. Lalrmachhan
R/o Hortoki.

134:Sh. Lalmangaiha
S/o Sapzuithanga
R/o Hortoki.

135:Smt. Tanpuui
D/o Kawlha
R/o Hortoki.

136:Sh. R. Lalramchhana
S/o Sapzuithanga
R/o Hortoki.

137:Smt. Lalnunziri
D/o Lalhruaia
R/o Hortoki.

138:Smt. Lalthai
D/o Lalrinkima
R/o Kawnpui.

139:Sh. Lalhnehkima
S/o Lalrinpuia
R/o Kawnpui.

140:Sh. Vanlalbiaka
S/o Mangliana
R/o Kawnpui.

141:Sh. Laltana
S/o Vanlalliana
R/o Kawnpui.

142:Smt. Lalchhingi
D/o Banglavunga (L)
R/o Kawnpui.

143:Sh. Tlangdawla
S/o Tathuma (L)
R/o Kawnpui.

144:Sh. Liankhuma
S/o Dawnkima (L)
R/o Kawnpui.

145:Sh. Vanlalhriata
S/o Thanliana (L)
R/o Kawnpui.

146:Sh. Lalenga
S/o Thleuva
R/o Kawnpui.

147:Sh. Lalthanga
S/o Hlunga
R/o Kawnpui.

148:Sh. C. Lalthanpuia
S/o CL Ringliana
R/o Kawnpui.

149:Smt. Lalmuanpuii
D/o P. Roliana
R/o Kawnpui.

150:Sh. C. Lalthanpuia
S/o C. Biakringa
R/o Kawnpui.

151:Sh. Rintluanga
S/o Suma (L)
R/o Kawnpui.

152:Smt. Lalsiami
D/o S. Rinthanga
R/o Kawnpui.

153:Sh. Lalchhuanga
S/o Thanghuta
R/o Kawnpui.

154:Sh. C. Zohmingliana
S/o Lalzawma
R/o Kawnpui.

155:Smt. Sairengpuii
D/o Thanbula (L)
R/o Saron Veng.

156:Smt. Ramsangpuii
S/o Thuamluaia (L)
R/o Saron Veng.

157:Smt. Lalhlimi
D/o R. Kailiana
R/o Kawnpui.

158:Sh. Kailiana
S/o Lalauva
R/o Kawnpui

159:Sh. Lalmuanawma
S/o Sanglura
R/o Kawnpui.

160:Sh. Ramdinzauva
S/o Kapthianga
R/o Kawnpui.

161:Sh. PC Lalthlamuana
S/o Ngurkhuma (L)
R/o Kawnpui.

162:Sh. K. Thankima
S/o K Thangzuala
R/o Kawnpui.

163:Sh. Darthangvunga
S/o Dailova
R/o Kawnpui.

164:Sh. Lalthazuala
S/o Sena (L)
R/o Kawnpui.

165:Sh. P. Roliana
S/o Aithuama (L)
R/o Kawnpui.

166:Sh. Lalchungnunga
S/o P. Roliana
R/o Aizawl.

167:Smt. Lalchhuangzuali
D/o V Chalnghaka
R/o Kawnpui.

168:Smt. Lalmangaihi
D/o RK Beiseia
R/o Kawnpui.

169:Sh. Thankima
S/o Khelkunga
R/o Kawnpui.

170:Sh. Laldinthari
D/o LN Tluanga
R/o Kawnpui.

171:Sh. Thangdawla
S/o Taithuama (L)
R/o Kawnpui.

172:Sh. Samuela
S/o Zaia (L)
R/o Kawnpui.

173:Sh. RL Zanghawra
S/o Kapthanga
R/o Kawnpui.

174:Sh. K. Dawngliana
S/o Kawltea
R/o Kawnpui.

175:Sh. Lalhmingmawia
S/o Nuntluanga
R/o Kawnpui.

176:Sh. Roliana
S/o Sangzuala (L)
R/o Kawnpui.

177:Sh. Chhandamthanga
S/o Changa (L)
R/o Kawnpui.

178:The District Collector
Kolasib District
Mizoram - 796081

179: The State of Mizoram
r/b the Secretary
Land Revenue and Settlement Department
Govt. of Mizoram.

Advocate for the Petitioner : Mr. Sanjay Kumar Medhi
Advocate for the Respondent : Mr. Lalsawirema

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO

Date of hearing : 24.05.2023.

Date of Judgment: 01.06.2023.

JUDGMENT & ORDER (CAV)

[1]. Heard Mr. S.K. Medhi, learned CGC for the petitioners and Mr. Lalsawirema, learned counsel for the private respondents and Mr. C. Zoramchhana, learned Addl. Advocate General for the State respondents. This order will dispose of both CRP No. 2/2023 and WP(C) No. 19/2023.

[2]. The petitioners Union of India has filed CRP No. 2/2023 challenging the Order dated 26.10.2022 passed by the learned Judge, Fast Track Court-cum-Addl. District & Sessions Judge, Kolasib, Mizoram in CMA No. 16/2022 in connection with Execution Case No. 1/2018 arising out of LA Case No. 42/2015. The petitioners have also challenged the consequential Order dated 11.11.2022

(Annexure-F) passed by the District Collector awarding the respondents land owners interest under Section 34 of the Land Acquisition Act, 1894 (LA Act) from the date of possession of their land till the date of Judgment and Order of the Reference Court in LA Case No. 42/2015.

[3]. In WP(C) No. 19/2023, the petitioners Union of India has also challenged the Order dated 11.11.2022 passed by the District Collector, Kolasib, whereby the land owners were found to be entitled to be given statutory interest as envisaged under Section 34 of the LA Act from the date of possession i.e. 04.03.2013 till the date of Judgment and Order of the Reference Court in LA Case No. 42/2015. The petitioners have also challenged the consequential Communications dated 14.11.2022 (Annexure-H) and 24.11.2022(Annexure-I) of the District Collector, Kolasib to the NF Railway Authority asking the latter to deposit the assessment made under Section 34 of the LA Act and the assessment made towards its interest on solatium as per Section 23 (1)(A) of the LA Act.

[4]. Mr. S.K. Medhi, learned CGC submits that the District Collector, Kolasib did not award land value to the land owners while preparing the Award No. 1/2012. All that was awarded was towards crops and trees of the land owners. Although the land owners did not prefer a Reference Application under

Section 18 of the LA Act, but as similarly situated land owners got the benefit of their application under Section 18 of the LA Act, the present land owners therefore approached the Collector under Section 28(A)(3) of the LA Act and the same was referred to the LA Judge by the District Collector. The case was registered as LA Case No. 42/2015. The learned LA Judge vide Judgment and Order dated 18.01.2017 disposed of the LA Case by awarding the value of the land @ Rs. 25 per square feet alongwith solatium @30% in addition to the land value alongwith interest @ 12% per annum from the date of notification under Section 4 of the LA Act up to the date of the Award No. 1/2012 in terms of Section 23(1)(A) and Section 23(2) of the LA Act. By the same Judgment and Order, the District Collector was asked to determine the compensation amount as awarded and thereafter, intimate the General Manager, NF Railway to satisfy the Award. In case, the awarded amount was not paid within the stipulated period of three months from the date of intimation made by the District Collector, the land owners would be entitled to interest applicable under Section 34 of the LA Act w.e.f. 17.01.2017 till full and final payment.

[5]. Since the awarded amount was not paid by the NF Railway, the land owners approached the learned Judge, Fast Track Court-cum-Addl. District & Session Judge, Kolasib, by filing Execution Case No. 1/2018 for execution of the Judgment and Award dated 18.01.2017 passed by the LA Judge in LA Case No.

42/2015. Against the Judgment and Award, the NF Railway had preferred RFA No. 15/2018 before this Court alongwith IA(C) No.60/2018. However, as same was dismissed by this Court vide Judgment & Order dated 29.09.2018, the NF Railway then remitted a Cheque to the District Collector, Kolasib on 04.04.2019 towards compensation for the value of the land awarded by the LA Judge, and the Execution Case was closed on 18.06.2019.

[6]. However, since the interest awarded was not satisfied, the land owners preferred RFA No. 3/2020 before this Court challenging the Order dated 18.06.2019 passed by the Execution Court closing the Execution Case. RFA No. 3/2020 was then disposed of on 25.05.2022 by this Court by allowing the appeal and reopening the Execution Case No. 1/2018. In the execution case itself, the land owners preferred CMA No. 16/2022, praying for grant of interest on the solatium awarded under Section 23(1) and Section 23(2) of the LA Act. The land owners also prayed for grant of interest under Section 34 of the LA Act from the date of possession of their land till 17.01.2017. The Execution Court therefore passed the impugned Order dated 26.10.2022 in CMA No. 16/2022 arising out of Execution Case No. 1/2018. In Execution Case No. 1/2018, the Execution Court on 23.02.2023 directed the Deputy Collector to submit the steps taken for compliance of the order regarding payment of statutory interest under Section 34 of the LA Act by the next Court date. Thereafter, the

petitioners Union of India approached this Court through the instant two proceedings and by the interim Order dated 20.03.2023, the impugned Order dated 26.10.2022 in CMA No. 16/2022, Order dated 11.11.2022 passed by the District Collector, Kolasib and the proceedings in the Execution Case was stayed by this Court.

[7]. Mr. S.K. Medhi, learned CGC submits that since there is nil value of the land of the land owners prior to the order passed by the LA Judge on 18.01.2017, the land owners are not entitled to any interest under Section 34 of the LA Act. He therefore submits that the Execution Court could not have directed that the land owners should make their claim for payment of interest under Section 34 of the LA Act before the District Collector, through the impugned Order dated 26.10.2022. In so far as the payment of interest on solatium under Section 23(1)(A) and Section 23(2) of the LA Act, in view of the Apex Court decisions in the case of *Sunder Vs. Union of India*, (2001) 7 SCC 211 and *Gurpreet Singh Vs. Union of India*, (2006) 8 SCC 457, the land owners would be entitled for the same. He further submits that there is no basis for the District Collector, Kolasib to pass the impugned Order dated 11.11.2022 in awarding interest to the land owners under Section 34 of the LA Act from the date of possession till the date of the Judgment & Award by the LA Judge. As such, the same being unsustainable, it should be set aside.

[8]. Mr. Lalsawirema, learned counsel for the private respondents on the other hand submits that the land owners cannot be deprived of the interest payable under Section 34 of the LA Act, for the period prior to the Judgment and Award of the Reference Court. Referring to Section 34 of the LA Act, the learned counsel submits that it is clearly envisaged that when the amount of compensation is not paid to the land owners, or deposited before taking possession of the land, the Collector is required to pay the amount awarded with interest @ 9% per annum from the date of taking possession till the same is paid or deposited. If the amount is not deposited within one year, the interest will be at the enhanced rate of 15% per annum from the date of expiry of one year till the amount is paid or deposited. Since the Reference Court has awarded compensation toward the value of the land to the land owners, they are only entitled to the interest available under Section 34 of the LA Act. The land owners approached the Collector for payment of interest under Section 34 of the LA Act and the same was accordingly awarded to them. Therefore, there is nothing wrong in the order of an assessment made by the District Collector.

[9]. I have heard the submission made by the learned counsels for the rival parties and I have perused the materials available on record.

[10]. From the project made by the parties, four issues arise for

consideration. Firstly, whether the Execution Court could have come to a finding that the land owners are entitled to payment of interest under Section 23(1)(A) and also the amount of solatium under Section 23(2) with all statutory benefits under the LA Act. Secondly, whether the Execution Court could have relegated the land owners to the District Collector with their claims for payment of interest under Section 34 of the LA Act. Thirdly, whether the District Collector, could have awarded the statutory interest under Section 34 of the LA Act to the land owners and fourthly, whether the land owners would be all entitled to payment of interest under Section 34 of the LA Act from the date of possession of their land up to the date of the Judgment by the Reference Court in LA Case No. 42/2015.

[11]. The first issue as to whether the Execution Court could have come to a finding that the land owners are entitled to payment of interest on solatium need not detain this Court as the law in this regard is well settled. The Apex Court in *Gurpreet Singh Vs. Union of India*, (2006) 8 SCC 457, held that an Execution Court cannot go behind the decree and that if the claim for interest on solatium had been made and the same was rejected expressly or impliedly, the Execution Court will have to reject the claim for interest on solatium based on the case of *Sunder Vs. Union of India*, (2001) 7 SCC 211. However, if the award of the Reference Court or that of the Appellate Court does not specifically

refers to the 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 was awarded, then it would be open to the Execution Court to apply the ratio of *Sunder(Supra)* and say that compensation awarded includes solatium and in such an event, interest on the amount could be directed to be deposited in execution. The Apex Court also clarified that such interest on solatium can be claimed only in pending execution and not in closed execution. The Apex Court rendered its decision on 19.10.2006 and therefore, the ratio laid down would only apply to the present case. The Execution Court at paragraph 10 of the impugned Order had also reflected the Apex Court judgment under reference. As such, I find no reason to interfere with the findings of the Execution Court in this regard.

[12]. As for the second issue, since the Execution Court did not take any decision on the issue, therefore, the same requires no further or separate deliberation.

[13]. Coming to the third issue, as to whether the District Collector could have awarded interest to the land owner under Section 34 of the LA Act, it would be gainful to abstract Section 34 of the LA Act as follows:-

“34. Payment of interest.- When the amount of such compensation is not paid or deposited on or before taking possession of the land,

the Collector shall pay the amount awarded with interest thereon at the rate of ²[nine per centum] per annum from the time of so taking possession until it shall have been paid or deposited.

¹[Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.]

[14]. From the above abstract, it may be seen that when the compensation amount is not paid or deposited before taking possession of the land, the Collector is required to pay the amount awarded with interest thereon @9% per annum from the date of taking over possession and till the compensation amount is paid or deposited. If the same is not paid within one year, the rate of interest will be enhanced from 9% to 15% from the date of expiry of the period of one year till the amount of compensation is paid or deposited. In the present case, there is no dispute to the fact that the compensation amount was not paid to the land owners prior to taking over possession of the land and under the provision of Section 34 of the LA Act, as abstracted above, it is the Collector who has to make the assessment of the interest payable to the land owners. The amount computed is to be paid by the Department/Ministry/Agency for whose benefit the land has been acquired.

Therefore, the District Collector in making the computation of interest payable under Section 34 is found to have only acted within its jurisdiction.

[15]. Lastly, the issue as to whether the land owners would be entitled to payment of interest from the date of taking possession till the Judgment of the Reference Court in view of the land value being nil, it may be seen that although, the Collector did not award any compensation towards land value in the Award No. 1/2012 but the Reference Court in LA Case No. 42/2015 found the land owners to be entitled to the value of the land @25 per square feet, as was given to others similarly situated. The so called nil value of land given by the District Collector through Award No. 1/2012 has therefore only been overwritten or superseded by the Judgment & Award of the Reference Court wherein value of the land has been awarded to the land owners. Therefore, there cannot be any artificial cut off date for computing land value i.e. one before the Reference application and the other after the reference application. Therefore, the land owners would be entitled for payment of interest as per Section 34 of the LA Act from the date of taking possession of their land up to the date of the Judgment and Award by the Reference Court since for the remaining period i.e, from the date of judgment of the award up to actual payment, the same is already covered by the Judgment and Award of the Reference Court.

[16]. In view of the above conclusion, this Court does not find any infirmity in the consequential letters issued by the District Collector, Kolasib, requiring the NF Railway to deposit the awarded amount.

[17]. In the result, I do not find merit in the writ petition as well as in the Civil Revision Petition and they are both dismissed. No cost.

JUDGE

Comparing Assistant