

Court No. - 19

Case :- FIRST APPEAL DEFECTIVE No. - 73 of 1993

Appellant :- Special L.A. And Others

Respondent :- Ram Naresh

Counsel for Appellant :- C.S.C.

Hon'ble Jaspreet Singh,J.

The present appeal is of the year 1993.

None appears for the respondents and the Court has heard the learned Additional Chief Standing Counsel for the State in absence of the respondents.

The instant appeal has been preferred by the State assailing the award passed by the Reference Court dated 15.12.1992 in Misc. Case No. 8 of 1992 under Section 54 of the Land Acquisition Act, 1894.

The submission of learned Additional Chief Standing Counsel for the State-appellant is that the Reference Court has not considered the amendment as introduced in the Land Acquisition Act, 1894 which came into effect in 1984 and thus the award made is on the higher side including the grant of interest and for the period for which it has been granted.

It has further been urged that the reference was also barred by limitation but this aspect has also not been considered which has resulted in sheer miscarriage of justice.

In order to appreciate the contentions, certain brief facts which are relevant to the controversy are being mentioned hereinafter first:-

The two plots bearing No. 577 and 580 situate in Village Rajapur Kalyan, Pargana and Tehsil Amethi, District Sultanpur belonged to Ram Naresh S/o of Parmeshwar Deen. The land in question was acquired in terms of the Land Acquisition Act, 1894 and the award made by the Special Land Acquisition Officer has been assailed on the ground that the interest and the solatium has not been paid appropriately.

This was resisted by the State and the Reference Court framed three issues which are as under:-

(i) Whether the possession of the disputed land was taken in July, 1982 or on 28.04.1989 and its effect?

(ii) Whether the land-owner is entitled to interest from July, 1982 or from 28.04.1989 and its effect?

(iii) Whether the award dated 28.06.1989 has become final?

The Reference Court after taking the evidence found that the land-owner had entered into the witness box and stated that the possession of the land was taken in the month of July, 1982. Though, the statement given by the land-owner remained uncontroverted as the State did not lead any evidence but nevertheless in light of the documentary evidence, it was found that actually the possession was taken in the month of June, 1983. This aspect was also admitted by the said witness in his cross-examination.

The Reference Court after taking note of the evidence available on record found that the possession was taken on 19.06.1983 and there was no other contrary evidence. The Reference Court also found that the land-owners were entitled to interest from 19.06.1983 up to date on which the compensation has been paid.

Though, the issue has been raised before this Court by the Additional Chief Standing Court regarding the Reference Court to be bad, however, he could not dispute that no evidence was led on behalf of the State before the Reference Court. The finding to the effect that the possession was taken on 19.06.1983 has been recorded by the Reference Court not only considering the evidence of the land-owners witness but also the application moved by the land-owners addressed to the Executive Engineer of the Irrigation Department.

The findings recorded both in respect of the date on which the possession was taken does not suffer from any patent illegality which may persuade this Court to intervene. Even the findings that the interest shall be payable from the date the possession is taken i.e. 19.06.1983 up to date when it is paid and as such the award made by the Reference Court dated 15.12.1992 is based on proper appreciation of the material on record as well as the exposition of law which does not require any interference from this Court, accordingly, the appeal sans merit which is ***dismissed*** accordingly. The award made by the Reference Court dated 15.12.1992 in Misc. Case No. 8 of 1992 is affirmed. Costs are made easy. Records of the Court below be returned forthwith.

Order Date :- 2.12.2023

Asheesh