



C.R.P.(MD).No.2987 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 26.03.2024

DELIVERED ON : 04.06.2024

CORAM

THE HON'BLE MR. JUSTICE G.ILANGO VAN

C.R.P.(MD).No.2987 of 2023

and C.M.P.(MD).No.15392 of 2023

Indian Rare Earths Limitd,
Manavalakurichy, Manavalakurichy Post,
Kalkulam Taluk,
Kanyakumari District.

... Petitioner/Respondent/
2nd Respondent

Vs.

P.Sabesan

... Respondent/Petitioner/
Decree Holder

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order of the Subordinate Judge, Eraniel, dated 13.09.2023 made in E.P.No.1 of 2022 in LAOP.No.1 of 2018.

For Petitioner : Mr.Krishna Srinivasan, Senior Counsel
for M/s.Rama Subramaniam and Associates

For Respondent : Mr.S.Pillai Monicantan



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ORDER

This civil revision petition has been filed to set aside the order of the Subordinate Judge, Eraniel, dated 13.09.2023 made in E.P.No.1 of 2022 in LAOP.No.1 of 2018.

2.The facts in brief:

The Government of Tamil Nadu issued notification under Section 4(1) of the Land Acquisition Act to acquire the land of the respondent herein measuring about 4,000 hectares and award was passed on 10.09.1990 in Award No.8 of 1991. The first respondent received Rs.4.51 lakh as part amount. Later, he filed a petition to enhance the compensation amount under Section 18 of the Land Acquisition Act before the Sub Court, Padmanabhapuram in LAOP.No.64 of 1991, that was dismissed. Against which A.S.No.40 of 2006 was filed. The matter was remanded back on 05.10.2010. Reference Court passed the final order enhancing the compensation amount and fixed the same at Rs.4,500/- per cent together with solatium of 30% and interest at 12%. The order was passed on 09.04.2021. Again the first respondent filed A.S.(MD)No.210 of 2021. That was dismissed confirming the order



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passed by the reference Court on 10.11.2021.

3.Later the first respondent filed execution petition in E.P.No.1 of 2022 for realising the compensation amount as enhanced. The revision petitioner deposited Rs.64,46,432 on 18.01.2022. Application was moved by the first respondent, that was also allowed. But, the first respondent raised a issue stating that the interest must be paid on the solatium amount. That was resisted by the revision petitioner stating that the reference court has not passed any order for payment of interest on the solatium. But that counter was rejected by the execution court and learned Sub Judge, Eraniel, passed the impugned order on 13.09.2023, directing the revision petitioner to pay the interest on solatium. Aggrieved over the same this revision is preferred.

4.We need not go into other details of the land acquisition proceedings, further reference appeal etc. facts. We will confine ourselves only with regard to the limited issue involved. Whether the order passed by the execution court directing the revision petitioner to pay interest on the solatium is legal. Now in the grounds, it is stated that



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the issue with regard to the payment of interest on the solatium is discussed by the Honourable Constitution Bench of the Honourable Supreme Court in ***Gurpreet Singh Vs. Union of India***, reported in ***(2006) 8 SCC 457***. According to the learned counsel for the revision petitioner, the interest on solatium can be paid only in the matters, where the execution proceedings are pending.

5.It is further submitted that as per the judgment of the Honourable Constitution Bench of the Honourable Supreme Court, if at all interest on solatium is permissible only after the judgment of the Honourable Supreme Court reported in ***Sunder Vs. Union of India***, reported in ***(2001) 7 SCC 211***. So the execution court ought not to have passed an order of payment of interest on solatium for the period between 09.10.1987 and 13.09.2022. The reference Court has now expressly made the conditional payment. The execution court is bound by the award and cannot go behind the award. That is the only point that was raised by the learned Senior Counsel for the revision petitioner and he is also referring to para 17 of the order passed by the execution court.

“17.According to the respondent, it calculated the



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interest only on the compensation amount of Rs. 4,500/-. The respondent contented that they are not liable to pay interest on the solatium amount. On perusal of the award, it is seen that the interest was granted by the tribunal on compensation amount as well as on 30% solatium amount. It is not stated in the award that interest shall be granted only to the compensation amount. In fact it is stated in the award that "நிலத்திற்கு சென்று 1க்கு ரூ.4,500/- வீதமும் தென்னை மரங்களுக்கு ஏற்கனவே வழங்கி நஷ்ட ஈடு போதுமானது என்றும் ஆர்ஜித சொத்துக்கு தற்போது நிர்ணயம் செய்யப்பட்ட இழப்பீடு தொகைக்கும் ஏற்கனவே வழங்கப்பட்ட இழப்பீடு தொகைக்கும் உள்ள வித்தியாச தொகைக்கு 30% ஆறுதல் தொகை வழங்க வேண்டும் என்றும் இந்த தொகைக்கு 12% வட்டி வழங்கப்பட வேண்டும் என்றும் உத்தரவிடப்படுகிறது." So the award is very clear that the respondent is liable to pay and the petitioner is entitled to get compensation amount at the rate of Rs.4,500/- percent and that 30% solatium amount shall be paid to the difference amount between the compensation amount fixed by way of this award and compensation amount already given and that 12% per annum interest shall be granted on that amount. So as per the award the respondent is entitled to get interest on the solatium amount also.



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6.The solatium amount of 30% was fixed over the difference of the award amount already passed and the enhanced amount. So according to the learned senior counsel for the revision petitioner, in Tamil version இந்த தொகை makes reference only to the enhanced compensation and not interest on the solatium. Whether such sort of interpretation is permissible under law will be discussed in the later part of the order.

7.Per contra, it was submitted by the respondent that the award was not passed on the date of the judgment of the Honourable Supreme Court reported in Sundar's case. The order passed by the reference court was upheld by the Division bench. There is no further appeal by the State Government.

8.Clarifying the position, the learned senior counsel for the revision petitioner would submit that the effect of the judgment in *Sundar's* case has been clarified by the Constitutional Bench in *Gurusamy's* case as noted above. Even if it is agreed for the limited purpose as mentioned in the grounds of appeal, interest on solatium is



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permissible only from the date of judgment of the Honourable Supreme Court in *Sundar's* case and not earlier to that.

9.The learned counsel for the respondent has relied upon a number of judgments. Starting from 2010 (3) LW 373 upto 2021 (2) CTC 178 and it is further submitted by the respondent that such a ground was not raised by the revision petitioner in A.S.(MD)No.210 of 2021. He also produced the copy of the grounds of appeal. So according to him the revision petitioner cannot challenge that order in view of the specific issue not raised before the appellate Court.

10.Now, we will straight away go to the issue. As per the judgment of the Honourable Supreme court, the interest on solatium is permissible under law. There is no quarrel on that preposition. Only the effective date is the issue now. We will go to the judgment of the Honourable Supreme Court in *Sundar's* case reported in (2001) 7 SCC 211. It was decided on 19.09.2001. The facts need not be elaborated. The conclusion of the Honourable Supreme Court alone to be extracted. Para No.23 reads as under



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23. In deciding the question as to what amount would bear interest under Section 34 of the Act, a peep into Section 3(1) of the Act would be advantageous. That Sub-Section says:

31(1) On making an award under Section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.”

The remaining sub-sections in that provision only deal with the contingencies in which the Collector has to deposit the amount instead of paying it to the party concerned. It is the legal obligation of the Collector to pay “the compensation awarded by him” to the party entitled thereto. We make it clear that the compensation awarded would include not only the total sum arrived at as per Sub-Section 23, but the remaining sub-sections thereof as well. It is thus clear from Section 34 that the expression “awarded amount” would mean the amount of compensation worked out in accordance with the provisions contained in Section 23, including all the



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sub-sections thereof.”

11. Para 26 is more clarificatory

“26. We think it useful to quote the reasoning advanced by Chief Justice S.S. Sandhawalia of the Division Bench of the Punjab and Haryana High Court in State of Haryana vs. Smt. Kailashwati and ors. (supra).

"Once it is held as it inevitably must be that the solatium provided for under Section 23(2) of the Act forms an integral and statutory part of the compensation awarded to a landowner, then from the plain terms of section 28 of the act, it would be evident that the interest is payable on the compensation awarded and not merely on the market value of the land. Indeed the language of S.28 does not even remotely refer to market value alone and in terms talks of compensation or the sum equivalent thereto. The interest awardable under Section 28 therefore would include within its ambit both the market value and the statutory solatium. It would be thus evident that the provisions of Section 28 in terms warrant and authorise the grant of interest on solatium as well."



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12.The final portion is in para No.27 which reads as under.

“27.In our view the aforesaid statement of law is in accord with the sound principle of interpretation. Hence the person entitled to the compensation awarded is also entitled to get interest on the aggregate amount including solatium. The reference is answered accordingly.”

13.This judgment came up for interpretation in Gurpreet Singh Vs. Union of India reported in (2006) 8 SCC 457. Para 54 of the judgment reads as under.

“54.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



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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)



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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.”

14.Now it has been settled that the interest on solatium in the absence of any specific order by the reference court the effective date can only to the date of judgment of Sundar's case. But here the issue is entirely different. The interpretation of the word இந்த தொகை has arising here. Reference court has passed an order which can be extracted hereunder. Para 56 decree order Award No.1 of 2018.

“1.இந்த மனுவில் கோரிக்கைதாரருக்கு சொந்தமான கையகப்படுத்திய நிலத்திற்கு சென்று 1க்கு ரூ.4,500 வீதமும் தென்னை மரங்களுக்கு ஏற்கனவே வழங்கிய நஷ்ட ஈடு போதுமானது என்றும். ஆர்ஜித சொத்துக்கு தற்போது நிர்ணயம் செய்யப்பட்ட இழப்பீடு தொகைக்கு ஏற்கனவே வழங்கப்பட்ட இழப்பீடு தொகைக்கும் உள்ள வித்தியாச தொகைக்கு



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30% ஆறுதல் தொகை வழங்க வேண்டும் என்றும், இந்த தொகைக்கு 12% வட்டி வழங்கப்பட வேண்டும் என்றும் உத்தரவடப்படுகிறது. எதிர்மனுதாரர்கள் இந்த வித்தியாச தொகை. ஆறுதல் தொகை, வட்டி ஆகியவற்றை மாத காலத்திற்குள் நீதிமன்றத்திற்கு வைப்பீடு செய்ய வேண்டும் என்றும், இத்தொகையில் கோரிக்கைதாரர் ஏற்கனவே பெற்றுக்கொண்டதொகை இருப்பின், அது போக மீதி தொகையை எதிர்மனுதாரர்கள் மனுதாரருக்கு அளிக்க வேண்டும் என்றும் 2.இந்த மனு தன்மையை கருத்தில் கொண்டு அவரவர்கள் செலவுத் தொகையை அவரவர்கள் ஏற்றுக்கொள்ள வேண்டும் என்றும் உத்தரவிடப்படுகிறது"

15.We can translate the operative portion of the decree as under for the land acquired compensation is fixed as Rs.4,500/- per sent. Regarding the coconut trees, the compensation already awarded is sufficient. Solatium at the rate 30% over the difference amount already fixed and the present fixation must be paid. For that amount 12% is ordered to be paid. The difference amount of compensation, solatium and interest must be paid within 3 months by the revision petitioner.



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16.The plain reading of the decree does indicate that interest was ordered to be paid on the solatium also. The judgment of the Honourable Supreme Court reported in *Gurpreet Sing's case* will come into operation only in case, when there is no specific order for payment of interest of solatium.

17.The interpretation stated to be given by the revision petitioner that the word இந்த தொகை mean only the difference of compensation amount ordered and not solatium is not acceptable and does not stand to reason also. இந்த தொகை will include not only compensation enhanced, but also solatium. So I am of the considered view that the revision petition is liable to be dismissed confirming the order passed by the execution court without going into the other aspects.

18.Accordingly, this civil revision petition stands dismissed. no costs. consequently, connected miscellaneous petition is closed.

04.06.2024

Index : Yes/No



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To

- 1.The Subordinate Judge, Eraniel.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN,J.

TM

PRE-DEIVERY ORDER MADE IN

C.R.P.(MD).No.2987 of 2023

04.06.2024