

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

:ORDER:

**GOPAL SINGH
V.
STATE OF RAJASTHAN & ANR.**

D.B.CIVIL WRIT PETITION NO. 4572/1998

Date of Order : 6th February 2013

PRESENT

**HON'BLE MR.JUSTICE DINESH MAHESHWARI
HON'BLE MRS.JUSTICE NISHA GUPTA**

Mr.M.C.Bhoot, Senior Advocate with Mr.D.C.Khatri for the petitioner
Mr.G.R.Punia, Senior Advocate & Additional Advocate General with
Mr.Jamwant Gurjar for the respondents.

Reportable

BY THE COURT: (*Per Hon'ble Dinesh Maheshwari*),J.

By way of this writ petition, the petitioner has challenged the constitutional validity of Sub-section (6) of Section 19 of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 ('the Act of 1973') wherein it is provided that the amount of acquisition, payable to a person for surplus land vesting in the State Government, shall carry simple interest at two and a half per cent per annum from the date of surrender of surplus land or of ejection therefrom.

Having regard to the subject matter of this writ petition, it appears appropriate to put a glance, at the outset, over the relevant background aspects concerning the subject enactment. The Act of 1973 was promulgated on 28.03.1973 as a consolidating and amending law for imposition of ceiling on agricultural holdings, disposal of surplus land, and the matters ancillary thereto. Its forerunner had been Chapter III-B of the Rajasthan Tenancy Act,

1955 ('the Act of 1955') that was ultimately repealed. In this enactment, provisions have been made, inter alia, for fixation of ceiling on land holdings, computation of ceiling area, furnishing of returns, vesting of surplus land, and the amount of acquisition. Section 19 of the Act of 1973 deals with the aspects relating to determination of amount of acquisition whereby the State Government has been made liable to pay the amount of acquisition for all lands vesting in it, to the person upon whom the final statement was served. Every such person is entitled to submit, within the prescribed time, a detailed statement of claim for the amount of acquisition in the prescribed form; and upon receipt of such statement of claim, the Authorised Officer is to determine the amount of acquisition payable in accordance with the prescribed scales. Leaving aside the other aspects, being not relevant for the present purpose, the questioned provision of Sub-section (6) of Section 19, whereby it is provided that the amount of acquisition shall carry simple interest at two and a half per cent per annum from the date of surrender of surplus land or of ejection, could be noticed as under:-

“(6) The amount of acquisition shall carry simple interest at two and a half per cent, per annum from the date of surrender of surplus land under sub-section (2) of section 16 or of ejection therefrom under sub-section (3) of that section as the case may be, till the date of payment.”

Since the core issue in this writ petition pertains to the constitutional validity of the aforesaid provision contained in Sub-section (6) of Section 19 of the Act of 1973, it is not necessary to make a detailed reference to the facts of the case, which are more or less indisputable; and only a brief reference to the relevant background aspects leading to this petition would suffice. The petitioner's father, late Shri Devi Singh, was holding certain parcels

of agricultural land in Tehsil Ahore and Tehsil Pali. The respondent State initiated the ceiling proceedings under Chapter III-B of the Act of 1955 against the father of the petitioner whereunder, the surplus agricultural land available with him was ordered to be acquired by an order dated 03.01.1976, as passed by the Sub-Divisional Officer, Jalore ('the SDO'); and possession of the surplus land was surrendered on 01.02.1976, 03.02.1976 and 14.07.1976. Thereafter, by an order passed by the SDO on 12.01.1984, the compensation for the land so acquired was determined at Rs. 74,464.20; and it was ordered that this amount shall be payable in ten equated installments and interest at the rate of two and half per cent as per section 19(6) *ibid.*, shall be payable from the date of last surrender i.e., 14.07.1976.

The petitioner and his mother (the original assessee having expired) preferred an appeal (No. 237/1986) against the aforesaid order dated 12.01.1984 before the Revenue Appellate Authority-II, Jodhpur ('the RAA'). During the pendency of this appeal, the amount assessed by the SDO (principal along with interest amounting to Rs. 84,702.45) was paid to the petitioner on 19.02.1987. Then, by an order dated 02.06.1987, the learned RAA enhanced the compensation to a sum of Rs.3,99,050/- and also awarded interest at the prescribed rate of two and half per cent per annum. Aggrieved by this order, the State preferred a revision petition before the Board of Revenue for Rajasthan, Ajmer that was dismissed by an order dated 20.10.1994.

When the petitioner did not receive the enhanced amount as ordered despite conclusion of the matter in the Board of Revenue, he made an application dated 05.05.1995 to the SDO seeking payment.

Then, by an order dated 20.03.1998, the SDO ordered for the payment of the due amount of Rs. 4,54,997/- through the Tehsildar, Ahore. Ultimately, the amount of compensation along with interest at the rate of two and half per cent per annum, to the tune of Rs. 4,54,997/- was paid to the petitioner through a demand draft (D.D. No. 00488838) on 25.03.1998. At this stage, the petitioner felt aggrieved by the interest paid to him at the rate of two and half per cent per annum as per the provisions of the Act of 1973 and hence, preferred this writ petition.

Questioning the provision contained in Sub-section (6) of Section 19 *ibid.* it is contended on behalf of the petitioner that such a provision, allowing interest at the rate only of two and a half per cent per annum, remains entirely arbitrary, illusory and unjust. It is submitted that such an abnormally low rate of interest at two and a half per cent per annum directly results in denial of economic justice which is one of the basic features of the Constitution of India as contained in its Preamble whereby, the objectives have, inter alia, been specified as to secure to all the citizens social, economic and political justice. It is submitted that per Article 300A of the Constitution of India, no person can be deprived of his property save by authority of law; and when the State has withheld the money payable to an individual for a long period of time without any justification, adequate and reasonable rate of interest ought to be allowed in the range of 12% per annum to 18% per annum. It is submitted that the petitioner cannot be deprived of his property by such provisions as contained in Section 19(6) *ibid.*; and not awarding of adequate amount of interest is clearly violative of very fundamentals of the Constitution. It is also submitted that Section

19(6) of the Act abridges the right of equality of opportunity to get interest on the money withheld by the State Government and the rate of interest as fixed is illusory and arbitrary. Hence, the provision is, according to the petitioner, unconstitutional and deserves to be declared invalid; and reasonable rate of interest deserves to be allowed for the period the State withheld the money payable. The learned counsel for the petitioner has referred to the decisions in: I.R. Coelho (Dead) By LRs v. State of T.N. & Ors.: (1999) 7 SCC 580; Jilubhai Nanbhai Khachar v. State of Gujarat: AIR 1995 SC 142; State of West Bengal and Ors. v. Committee for Protection of Democratic Rights, West Bengal and Ors.: (2010) 3 SCC 571; and Rajiv Sarin and another v. State of Uttarakhand and Others: (2011) 8 SCC 708.

Per contra, the learned counsel for the respondent has raised the preliminary objections that the writ petition has been filed after an inordinate delay of 11 years; that the petitioner neither challenged the rate of interest before the RAA in the appeal nor preferred any revision petition before the Board of Revenue; and that he has challenged the rate of interest for the first time in the year 1998 in this writ petition and that too, after receiving complete payment on 25.03.1998.

The learned counsel for the respondent has also raised the objection that the Act of 1973, having been placed at entry 79 in Ninth Schedule to the Constitution of India, is immune from judicial review, per Article 31B of the Constitution. It is also submitted that the questioned provisions do not, in any manner, interfere with or disturb the basic structure of the Constitution of India and hence, cannot be said to be open to judicial review.

Apart from the above, the ground of unconstitutionality and arbitrariness in the interest rate as provided in the impugned provision has been refuted with the submissions that the questioned interest rate has been provided in the Act of 1973, which is a special enactment, made by the competent legislature with an objective of socio-economic welfare and for acquisition of surplus land for its distribution amongst the landless and other persons amongst the rural population. It is submitted that when the Act of 1973 provides for and deals with such social and economic welfare objectives, the rate of interest over the amount payable against the acquisition of land thereunder cannot be compared with the rate applicable to other enactments or transactions; and in its context and object, the rate of interest as provided cannot be said to be unjustified. In support of the arguments, the learned counsel for the respondents has referred to and relied upon the decisions in *Union of India v. Chajju Ram (dead) by LRs. & Ors.*: (2003) 5 SCC 568; *Seema Silk & Sarees & Anr. v. Directorate of Enforcement & Ors.*: (2008) 5 SCC 580; *Bengal Nagpur Railway Co. Ltd. v. Ruttanji Ramji & Ors.*: AIR 1938 PC 67; *Union of India v. A.L. Rallia Ram*: (1964) 3 SCR 164; *Dr. Prahlad Singh v. State of Rajasthan & Ors.*: AIR 1988 Raj 219 (F.B.); and *Godavari Sugar Mills Ltd. v. State of Maharashtra & Ors.*: (2011) 2 SCC 439.

Having given thoughtful consideration to the rival submissions and having examined the record, we are clearly of the view that this writ petition remains bereft of merit and deserves to be dismissed.

Having regard to the questions raised and further having regard to the fact that this writ petition, filed in the year 1998, had

been admitted for hearing, we see no reason to enter into the aspect of delay, laches, and omissions on the part of the petitioner on the submissions made by the learned counsel for the respondent. Leaving such objections at that only and having regard to the circumstances, it appears just and proper to deal with the contentions on their merits.

As regards the questions posed in this matter, we may observe in the first place that the Act of 1973, as promulgated on 28.03.1973, came to be inserted as Entry 79 in the Ninth Schedule to the Constitution of India by the Constitution (Thirty-Fourth) Amendment Act, 1974 on 07.09.1974. Ninth Schedule to the Constitution of India itself came to be introduced by the Constitution (First Amendment) Act, 1951 with effect from 08.06.1951 together with Articles 31A and 31B. Essentially, the said provisions had been to assist the process of legislation to bring about agrarian reforms and to confer upon all such measures immunity from a possible attack on the ground of contravention of fundamental rights. Article 31B reads as under:-

“31B Validation of certain Acts and Regulations.-

Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.”

The object and philosophy behind such constitutional amendments has been indicated in several of the decisions of the Hon'ble Supreme Court. For the present purpose, we may refer to the following observations of the Hon'ble Supreme Court in I.R.

Coelho (Dead) By LRs vs State Of Tamil Nadu & Ors.: (2007) 2

SCC 1:-

“12. The constitutional validity of the Acts added to the Ninth Schedule by the Constitution (Seventeenth Amendment) Act, 1964 was challenged in petitions filed under Article 32 of the Constitution. Upholding the constitutional amendment and repelling the challenge in Sajjan Singh v. State of Rajasthan the law declared in Sankari Prasad was reiterated. It was noted that Article 31-A and 31-B were added to the Constitution realizing that State legislative measures adopted by certain States for giving effect to the policy of agrarian reforms have to face serious challenge in the courts of law on the ground that they contravene the fundamental rights guaranteed to the citizen by Part-III. The Court observed that the genesis of the amendment made by adding Articles 31-A and 31-B is to assist the State Legislatures to give effect to the economic policy to bring about much needed agrarian reforms. It noted that if pith and substance test is to apply the amendment made, it would be clear that Parliament is seeking to amend fundamental rights solely with the object of removing any possible obstacle in the fulfillment of the socio-economic policy viz. a policy in which the party in power believes.....”

In I.R. Coelho (supra), the Hon'ble Supreme Court considered the reference essentially on the question as to whether on or after 24.04.1973, the date of delivery of decision in Kesavananda Bharati's case: AIR 1973 SC 1471 when the basic structure doctrine was pronounced, it was permissible for the Parliament under Article 31B to immunise the legislation from fundamental rights by inserting them into the Ninth Schedule and if so, what was the effect on the power of judicial review of the Court? The Hon'ble Supreme Court ultimately concluded as under:-

“151. In conclusion, we hold that:

(i) A law that abrogates or abridges rights guaranteed by Part III of the Constitution may violate the basic structure doctrine or it may not. If former is the consequence of law, whether by amendment of any article of Part III or by an insertion in the Ninth Schedule, such law will have to be invalidated in exercise of judicial review power of the Court. The validity or invalidity would be tested on the principles laid down in this judgment.

(ii) The majority judgment in Kesavananda Bharati case read with Indira Gandhi case, requires the validity of each new

constitutional amendment to be judged on its own merits. The actual effect and impact of the law on the rights guaranteed under Part III has to be taken into account for determining whether or not it destroys basic structure. The impact test would determine the validity of the challenge.

(iii) All amendments to the Constitution made on or after 24-4-1973 by which the Ninth Schedule is amended by inclusion of various laws therein shall have to be tested on the touchstone of the basic or essential features of the Constitution as reflected in Article 21 read with Article 14, Article 19, and the principles underlying them. To put it differently even though an Act is put in the Ninth Schedule by a constitutional amendment, its provisions would be open to attack on the ground that they destroy or damage the basic structure if the fundamental right or rights taken away or abrogated pertain or pertain to the basic structure.

(iv) Justification for conferring protection, not blanket protection, on the laws included in the Ninth Schedule by constitutional amendments shall be a matter of constitutional adjudication by examining the nature and extent of infringement of a fundamental right by a statute, sought to be constitutionally protected, and on the touchstone of the basic structure doctrine *as reflected in Article 21 read with Article 14 and Article 19* by application of the "rights test" and the "essence of the right" test taking the synoptic view of the articles in Part III as held in Indira Gandhi case. Applying the above tests to the Ninth Schedule laws, if the infringement affects the basic structure then such a law(s) will not get the protection of the Ninth Schedule.

This is our answer to the question referred to us vide Order dated 14th September, 1999 in I.R.Coelho v. State of T.N.

(v) If the validity of any Ninth Schedule law has already been upheld by this Court, it would not be open to challenge such law again on the principles declared by this judgment. However, if a law held to be violative of any rights in Part III is subsequently incorporated in the Ninth Schedule after 24-4-1973, such a violation/infringement shall be open to challenge on the ground that it destroys or damages the basic structure as indicated in Article 21 read with Article 14, Article 19 and the principles underlying thereunder.

(vi) Action taken and transactions finalized as a result of the impugned Acts shall not be open to challenge."

In view of the above, the Act of 1973 may not be considered totally immune from judicial review merely for having been placed in Ninth Schedule. However, its provisions could be considered open to attack only on the ground that the same abrogate or abridge the rights guaranteed by Part-III of the Constitution; and destroy or damage the basic structure of the Constitution.

Coming to the question as to whether the impugned provision suffers from any such vice of destroying or damaging the basic structure of the Constitution, the salient features of the doctrine of basic structure may be usefully referred to, as explained by the Hon'ble Supreme Court in several of the decisions. It could be summed up for the present purpose that the basic structure of the Constitution involves those parts of the Constitution without which, it may lose its fundamental character. The doctrine envisages that the Constitution of India has certain basic features which cannot be altered or destroyed through amendments in laws. In the landmark decision in *Kesavananda Bharati v. State of Kerala & Anr.* AIR 1973 SC 1471, the following, amongst others, were pointed out as the "basic foundation and structure" of the Constitution: 1. Supremacy of the Constitution; 2. Separation of Powers between the legislature, the executive and the judiciary; 3. Republican and the democratic form of Government; 4. Secular character of the Constitution; 5. Federal character of the Constitution; 6. The dignity of the individual secured by the various Fundamental Rights and the mandate to build a welfare state contained in the Directive Principles; 7. The unity and integrity of the nation; and 8. Parliamentary system.

In *Minerva Mills Ltd. v. Union of India*: (1980) 3 SCC 625, the balance between the Fundamental Rights and Directive Principles was also noted as an essential feature of the basic structure of the Constitution. In *S.P. Sampath Kumar v. Union of India*: (1987) 1 SCC 124 and *P. Sambamurthy v. State of Andhra Pradesh*: (1987) 1 SCC 362 it was laid down that the rule of law and judicial review were integral to the basic structure.

For the questions involved in this matter, we need not expand much on the different facets of basic structure doctrine but, in the context of the law aforesaid, we may examine the scheme of the Act of 1973 itself before entering into the questions relating to one of its provisions i.e., Sub-section (6) of Section 19. The intent of the legislature behind enacting the Act of 1973 can be gathered by a plain reading of its preamble as under:-

“An Act to provide for the imposition of ceiling on agricultural holdings acquisition and disposal of surplus land and matters ancillary thereto.

Whereas, under clauses (b) and (c) of Article 39 of the Constitution of India, the State should, in particular, direct its policy towards securing that the ownership and the control of the material resources of the community are so distributed as best to subserve the common good and that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

And whereas, the area of the agricultural land available for cultivation in the State is limited;

And whereas, there is great disparity in the holding of agricultural land leading to the concentration of such land in the hands of certain persons;

And whereas, it is necessary to acquire the agricultural land in excess of the ceiling area and to distribute such land to the landless and other persons among the rural population or to utilise it for carrying out other measures of agrarian reform;

And whereas, such distribution will best subserve the common good, increase agricultural production and promote justice, social and economic;

And whereas, it is expedient to provide for all these and other matters connected therewith;”

Evident it is that the Act of 1973, a special socio-economic law, was framed with an aim of carrying out agrarian reforms and to promote social and economic justice by removing out disparity in the holdings of the agricultural land. For the said purpose, the legislature made a fair balance of acquisition of surplus land and compensation therefor. Chapter-II of the Act has vested the State with power to acquire surplus land and to distribute it amongst the landless; whereas Chapter-III provides for computation and payment of the amount of acquisition and, of course, the rate of interest thereupon.

The questioned provision as contained in Sub-section (6) of Section 19 of the Act of 1973 regarding the rate of interest has been reproduced hereinbefore. The rate of interest as prescribed therein may, at the first blush and in isolation, appear a bit restrictive and on the lower side but then, the matter cannot be examined and viewed with an abstract reference only to the quantum of interest rate, away and apart from the other features of the enactment in which such right occurs. Under the Act of 1973, the interest is paid to a land holder whose such land is acquired which is of surplus and thereby, against the socio-economic requirements of the society. Until surrender, the person concerned had been in use of the land and then, the land is to be given to the other landless persons so as to proceed in the direction of equal distribution of the resources and wealth as far as possible. The rate of interest as provided and as sought to be questioned herein, is required to be visualized in the context of all the surrounding factors; and the legislature would be deemed to have taken into consideration all such relevant aspects while deciding as to what would be the reasonable compensation including interest for the person whose surplus land beyond the ceiling limit is to be acquired.

It has been noticed during the course of submissions that in such kind of other land reforms laws like the Rajasthan Land Reforms and Resumption of Jagirs Act, 1952 and alike enactments of other States, the rate of interest over the amount of compensation has been provided only at or in the range of 2.5% per annum.

Though the learned counsel for the petitioner referred to the then applicable provisions of the Rajasthan Land Acquisition Act, 1953, the Rajasthan Urban Improvement Act, 1959 and the Land

Acquisition Act, 1894 to submit that rate of interest for acquisition had been in the range of 4% to 6% and in various enactments, it has been enhanced too but then, payment of interest on the amount of compensation paid for compulsory acquisition of the property for other nature public purposes is required to be put at a different pedestal. The enactments like the Act of 1973, making provisions for resumption of excess land, for their very nature, have provided for a comparatively lesser rate of interest on the amount payable towards acquisition and in the background in which such amount is paid, the differentiation is obviously that of a valid classification based on intelligible differentia. Thus, the assumed hardship alone cannot be a ground to treat such so-called lower rate of interest as violating the constitutional scheme of ensuring social, economic and political justice to the citizens.

In Chajju Ram (supra) the Hon'ble Apex Court upheld the absence of provision for payment of solatium and interest for acquisition of requisitioned property under the Defence of India Act, 1971 and said,-

“30. We are, therefore, of the opinion that the classification sought to be made for determination of the amount of compensation for acquisition of the land under the said Act vis-à-vis the Land Acquisition Act is a reasonable and valid one. The said classification is founded on intelligible differentia and has a rational relation with the object sought to be achieved by the legislation in question.”

In an overall comprehension of the Scheme of 1973, we are clearly of the view that the provisions as contained in Sub-section (6) of Section 19, merely for providing a comparatively lesser rate of interest on the amount of compensation payable, cannot be considered violating the constitutional ideals of securing economic justice.

Viewed from any angle, we do not find any reason or basis to agree on the submissions of the learned counsel for the petitioner that such assumed lower rate of interest, by itself, damages the basic structure of the Constitution. Contrary to the submissions as made, in our view, the enactment rather strengthens the basic structure of the Constitution by proposing to bring about a socio-economic order with reasonable distribution of the land. The person who was earlier holding excessive land is being obliged to part with the land beyond the permissible limits and even for this deprivation, he is paid compensation. In the context of enactment, the interest rate over such amount of compensation, even if on the lower side, cannot be said to be in any manner violating the requirements of economic justice.

The learned counsel for the petitioner has argued that under the provisions of 19(6) of the Act of 1973, the petitioner has been denied the legitimate compensation by way of adequate interest for withholding of the amount by the State and hence, deprived of his right to property. On this issue, we may only say that the right of property is not as such of the basic feature or the structure of the Constitution. It is only a constitutional right; and remains subject to valid laws. The argument made by the counsel for the petitioner that he was entitled to get a higher interest rate to the extent of 12% or 18% per annum, and the State by awarding 2½% interest rate has deprived him of economic justice and, therefore, there is violation of his fundamental right enshrined under Article 14 of the Constitution, is not a well founded one. As noticed above, the acquisition of surplus land under the Act of 1973 and the monetary rights arising from such an acquisition cannot be considered as similar vis-a-vis

other laws prescribing higher rate of interest or of commercial transactions. As observed, this particular provision occurs in the enactment that deals with such rights which, by their very nature, stand at a different footing; and wherein higher rate of interest herein cannot be claimed with reference to other laws or transactions.

We are, therefore, of the opinion that under Section 19 (6) *ibid.*, prescribing simple interest at the rate of two and half per cent per annum on the amount of compensation for acquiring surplus land under the Act of 1973 vis-a-vis higher rate of interest for compensation under other laws or under other transactions is a reasonable classification and a valid one. The difference of rate of interest is founded on intelligible differentia and has a rational relation with the object sought to be achieved by the Act of 1973. Hence, question does not arise of violation of the right of equality.

We may also point out that a Larger Bench of this Court in Dr.Prahlad Singh's case (supra) considered the provisions of the Act of 1973 when the reference was made upon the claimants seeking higher rate of interest than that prescribed in Section 19 (6). The question referred to the Larger Bench was:-

“Whether in view of the express provision contained in sub-section(6) of Section 19 of the Act (Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973), interest at rate in excess of 2½% can be awarded on the amount of compensation under the Act.”

While answering the reference, the Larger Bench of this Court observed:

“5..... In view of the express provision contained in sub-section (6) of Section 19 of Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973, simple interest at a rate in excess of two and half per cent cannot be awarded on the amount of compensation under the Act.”

In view of what has been found and discussed hereinabove, the decisions as cited by the learned counsel for the petitioner do not appear making out any case in his favour so far Sub-section (6) of Section 19 of the Act of 1973 is concerned. In *Rajiv Sarin (supra)*, the Hon'ble Supreme Court considered the question arising in the backdrop of the provisions where the forest land of the appellants was sought to be acquired by the Government with no compensation. The observations made in *Rajiv Sarin's* case about the requirement of reasonable and just compensation and that the compensation cannot be illusory do not make out a case for declaring Sub-section (6) of Section 19 of the Act of 1973 as unconstitutional merely for providing lesser rate of interest. So far the order passed in *I.R.Coelho's* case, as reported in (1999) 7 SCC 580 is concerned, that had been the order drawing reference and we have referred hereinabove to the conclusions ultimately reached by the Larger Bench of the Hon'ble Supreme Court. The observations in *Jilubhai Nanbhai Khachar's* case (*supra*) as regards the challenge to the Bombay Land Revenue Code and Land Tenure Abolition Laws (Gujarat Amendment) Act are also not of direct bearing in the present case. Similarly, the decision in *Committee for Protection of Democratic Rights's* case (*supra*) on the law that fundamental rights cannot be extinguished by any constitutional or statutory provision; and that any law which in its actual effect and impact abridges or abrogates the fundamental rights is violative of basic structure, are neither of any doubt nor could be. However, as noticed hereinabove, the questioned provision does not appear in any manner offending any fundamental right or any feature that relates to the basic structure of the Constitution.

In the ultimate analysis, we are clearly of the view that the rate of interest as provided in Sub-section (6) of Section 19 of the Act of 1973 does not in any manner affects, offends or interferes with the basic structure of the Constitution of India nor is violative of the fundamental right of equality under Article 14 of the Constitution of India. Challenge to the said provision of Sub-section (6) of Section 19 of the Act of 1973 must fail.

Accordingly and in view of the above, the writ petition stands dismissed. No costs.

(NISHA GUPTA),J.

(DINESH MAHESHWARI),J.