

Party Name : UNION OF INDIA Vs BIJOY PADA DAS

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THE HONBLE MR. JUSTICE S.TALAPATRA

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Heard Mr. A. Lodh, learned counsel appearing for the petitioner. None appears for the respondent despite due notice from this court.

By this petition filed under Article 227 of the Constitution of India, the order dated 13.11.2013 delivered in Execution (M) 14 of 2002 by the L.A. Judge, West Tripura, Agartala, Court No.2, has been challenged as the executing court while executing the award dated 19.08.1997 delivered in Misc.(L.A) 136 of 1986, has accepted the claim of interest over the solatium in terms of Section 34 of the Land Acquisition Act.

Mr. Lodh, learned counsel, has taken this court to the paragraph 14 of the said judgement and award dated 19.07.1997, which reads as under:

“In the result, I hold that all the claimant-petitioners of the above cases are entitled to get market value of the acquired lands @ Rs.12,000/- per kani. Besides that they are entitled to get solatium @ 30% of the market value as determined by this court. They are also entitled to get interest @ Rs.9% per annum from the date of possession for one year and thereafter @ Rs.15% per annum on the enhanced amount. Claimant petitioners are also entitled to get cost of Rs.200/- in each case.”

Mr. Lodh, learned counsel has submitted that in view of the apex court’s decision in Gurpreet Singh vs. Union of India, reported in (2006) 8 SCC 457, if the interest on the solatium is not specifically awarded, such interest would only be awarded from the date of the judgement of Sunder vs. Union of India, reported in (2001) 7 SCC 211. For purpose and reference, the relevant part of Gurpreet Singh vs. Union of India is reproduced hereunder:

“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 negated 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 : (2001) 7 SCC 211 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 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.”

Mr. Lodh, learned counsel has submitted that from the reading of the para 14 of the said judgement and award dated 19.08.1997, it would be clear that the interest was given only on the land value, but not on the solatium.

This court is not persuaded by such proposition of Mr. Lodh, learned counsel appearing for the petitioner, as the direction for interest is not exclusive, but general in its implication. The interest as granted by the Land Acquisition Judge cannot be said to be relatable only to the land value. As such, according to this court, where the interest on the solatium is negated or that the interest on the solatium has not been specifically granted, the decision of Gurpreet Singh vs. Union of India would apply. It appears to this court that the interest on all the components of the compensation has been granted by the said judgment and award and as such there is no infirmity in the order of the executing court. Accordingly, this petition stands rejected.

No costs.