

THE HIGH COURT OF TRIPURA

A G A R T A L A

CRP No. 92 of 2015

Petitioner :

Union of India,

To be represented by Asstt. Defence Estate
Officer, Lichubagan, P.O-Salbagan, P.S- New
Capital Complex, Agartala-12.

By Advocate :

Mr. A. Lodh, Adv.

Respondents :

1. Smti Rani Bala Paul,

W/o. Lt. Madhusudhan Paul,
Resident of Abhoynagar, P.S-East Agartala,
Dist-West Tripura.

2. Sri Samiran Paul,

S/o. Kt, Nadhusudhan Paul, Resident of
Abhoynagar, P .S.- East Agartala, Dist-West
Tripura.

3. Sri kishore Paul,

S/o. Lt. Madhusudhan Paul, Resident of
Abhoynagar, P.S-East Agartala, Dist.-West
Tripura.

4. Smti Bharati Paul,

W/o. Sri Uttam Paul,
D/o. Lt. Mdhusudhan Paul, R/o. Vill-Jirania, P.S-
Jirania, Dist.-West Tripura.

By Advocate :

Mr. D. Chakraborty, Sr. Adv.

B E F O R E

THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **15th October, 2015.**

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

The short question which arises in this case is whether interest on the amount of solatium is to be paid from 19.09.2001 i.e. the date when the Apex Court decided the case of ***Sunder Vrs. Union of India: (2001) 7 SCC 211*** or from the date of notification issued under Section 4 of the Land Acquisition Act, 1894.

[2] The operative portion of the judgment of the learned Single Judge on the basis of which the execution petition has been filed reads as follows:

"16.9.1992

In view of the order passed in FA No. 86 of 1989 the claimant –appellant shall be entitled to get Rs. 24,000/- per kani and in addition 30% solatium. The appellant shall also be entitled to get interest @ Rs.9% per annum for the first year and thereafter 12% per annum. The appeal is disposed of accordingly."

The learned Executing Court applying the judgment of ***Sunder's (supra)*** case held that the claimant is entitled to interest on solatium from the date of acquisition of the land.

[3] On behalf of the Union of India it was urged that as per the judgment of the Constitution Bench of the Apex Court in ***Gurpreet Singh Vrs. Union of India : (2006) 8 SCC 457*** interest on solatium is payable only from 19.09.2001 i.e. the date when ***Sunder's*** case was decided.

[4] In ***Sunder's*** case it was clearly held that unless the request for interest has been specifically rejected, even the Executing Court was bound to grant interest on solatium. However, a Constitution Bench of the Apex Court in ***Gurpreet Singh's*** case dealing with this question held as follows:

"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 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)* 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."

[5] The gist of the judgment of the Apex Court is as follows:

(1) Since the Executing Court cannot go behind the decree if the land reference Judge has rightly or wrongly specifically rejected the prayer for grant of interest on solatium then the Executing Court cannot grant such interest.

(2) If the Land Acquisition Judge has specifically granted interest on solatium then it is payable from the date of notification issued under Section 4 of the L. A. Act, 1894.

(3) The Apex Court further held that there were a large number of cases where there is no specific reference to interest payable on solatium. There may also be cases where claim for interest on solatium had not been made and, therefore, there was

*no question of accepting or rejecting such a claim. In these cases the Apex Court held that the executing Court was free to follow the judgment of **Sunder(supra)** and grant interest on solatium but with the caveat that in such cases the interest would be awarded only from 19.09.2001 i.e. the date when **Sunder's** case was decided.*

(4) *The Apex Court also made it clear that the executing Court could award interest on solatium only in pending executions and where the execution proceedings had been disposed of, the matter could not be re-opened.*

[6] The law laid down in **Gurpreet Singh's** case is very clear. In the present case the order of the learned Single Judge does not refer to grant of interest on solatium. The order only says that the claimant is only entitled to get Rs.24,000/- per kani as cost of the land in addition to 30% solatium. The appellant has also be held entitled to interest @ 9% per annum and thereafter @12% per annum but has not been clearly stated that the interest is awarded on the whole amount of compensation.

Therefore, I am clearly of the view that the claimants are entitled to interest on the solatium only with effect from 19.09.2001 the date when the judgment was passed in **Sunder's** case.

[7] In view of the above discussion, the petition is allowed and the matter is remanded to the learned District Judge who shall now again quantify the amount payable by the Union of India in accordance with the law laid down hereinabove. The parties are directed to appear before the learned Executing Court on 26th November, 2015 and the Executing Court shall ensure that the Execution Petition is disposed of by 31st January, 2016.

[8] The petition is disposed of in the aforesaid terms. No order as to costs.

CHIEF JUSTICE