

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of Decision: 31.08.2015

- (1) COCP No. 976 of 1991
Rattan Singh ..Petitioner
versus
N.N.Vohra and others ..Respondents
- (2) COCP No. 977 of 1991
Rattan Singh and another ..Petitioner
versus
N.N.Vohra and others ..Respondents

**CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present : Mr. Hemant Sarin, Advocate, for the petitioners.
Mr. Chetan Mittal, Assistant Solicitor General of India with
Mr. Vivek Singla, Senior Panel Counsel for Union of India.

S.J.VAZIFDAR, A.C.J. (Oral)

The learned Single Judge vide order dated 06.-07.2010 had referred the following question to a larger Bench:-

“Whether the land-owner, who is entitled to compensation under Section 8(2), (2A) and (2B) of the Act, for requisition of land, is entitled to interest from the date of requisition, after the land is acquired and compensation determined in terms of Section 8(1) read with Section 8(3) of the Act.”

2. We are of the view that the question did not arise for consideration before the learned Single Judge. The learned Judge was considering whether the respondent had committed contempt of an order and judgment in a first appeal which was affirmed by the Division Bench in the Letter Patent Appeal filed by the respondents. The only question that fell for

consideration in the contempt proceedings was the interpretation of these

judgments. In a contempt proceeding, it is not for the Court to decide whether the judgment of which the contempt is alleged was correct or not.

3. Considering the restricted nature of this matter, it is sufficient to refer to the facts only briefly.

On 15.09.1965, the petitioner's premises were requisitioned under the Requisitioning and Acquisition of Immovable Property Act, 1952. On 09.01.1970, the petitioner's property was acquired in exercise of the powers under Section 7 of that Act. The Arbitrator determined the compensation payable to the petitioner on 26.03.1987. The petitioner filed FAO No. 613 of 1987 for enhancement of compensation. The FAO was disposed of by final judgment and order dated 31.01.1989. The learned Judge held:-

“I evaluate the market value of the acquired land at ₹ 350/- per marla. It is further held that the claimants would get solatium at the rate of 30 per cent as the aforesaid market value and interest thereon for the first year, from the date when possession was taken at the rate of 9 per cent per annum and thereafter at the rate of 15 per cent per annum till the date of payment of the compensation awarded. The appellants shall also have proportionate costs of their appeals.”

(emphasis supplied)

By an order and judgment dated 07.05.2009, the Division Bench dismissed the respondent's Letters Patent Appeal No. 1918 of 1989. It is sufficient only to note that the Division Bench also observed that the learned Single Judge had inter-alia granted interest “from the date the possession was taken over from the owners”.

4. The only question that falls for consideration is whether the interest was payable from the date on which the property was requisitioned

i.e. 15.09.1965 or from 09.01.1970 i.e. the date when the property was acquired.

5. As we observed earlier, in contempt proceedings, the only question that falls for consideration is whether the judgment and order dated 31.01.1989 as confirmed by the judgment and order of Division Bench dated 07.05.2009 was obeyed or not. It is not open to the respondents to disobey the judgment and order contending that it is wrong. If the respondents are of the view that the judgment and order are wrong, they ought to adopt appropriate proceedings to have the same set-aside or modified. They cannot unilaterally disobey the judgment and order.

6. Mr. Mittal, learned Assistant Solicitor General appearing on behalf of Union of India submitted that in any event we ought to construe the above orders and judgments as the interest is payable only from the date on which the property was acquired and not from the date on which the property was requisitioned. In other words, according to him, we ought to construe the judgment as having held that the date of possession should be on the date of acquisition and not on the date of requisition.

7. The order and judgment must be read as they are. The issues now sought to be raised by Mr. Mittal were not even raised before the learned Single Judge or before the Division Bench. These judgments and orders direct the interest to be paid from the date of possession. Admittedly, the possession was taken over on 15.09.1965. Admittedly, again it was not even contended that notionally the possession was handed back to the owners prior to the acquisition and thereafter possession was regained from them pursuant to the acquisition. The orders and judgments are capable of only one interpretation, namely, that the interest was payable from the date on which the actual possession was taken. Admittedly, it was taken on

15.09.1965. No other rival date of possession was even considered by the Court in those proceedings.

8. In the circumstances, the interest as per the judgments and decrees is payable from 15.09.1965. We will presume, however, that the respondents have not deliberately committed breach of the judgments and orders and that they were under the genuine impression that the interest was payable only after the property was acquired. We do not intend, therefore, taking any action for contempt against the respondents. The position is, however, now clear to the respondents. They cannot hereafter disobey the orders by refusing to pay interest from 15.09.1965. This is obviously subject to any orders that may be passed in a challenge to this judgment.

9. We, however, wish to clarify that we have not dealt with Mr. Mittal's submission as to what the legal position ought to be. We keep the issue open. We have not decided the issue as that does not fall for consideration in proceedings for contempt or for enforcement of the aforesaid orders and judgments.

10. Both the contempt petitions are, therefore, disposed of with the above observations and with a direction to the respondents to comply with the order and judgment dated 31.05.1989 as confirmed by the order and judgment dated 07.05.2009 latest by 31.10.2015 by calculating interest from 15.09.1965 and not from 09.01.1970.

A photocopy of this order be placed in the connected file.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

31.08.2015
'ravinder'

(TEJINDER SINGH DHINDSA)
JUDGE