

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 14.10.2015

CR No. 2882 of 1994 (O/M)

Daya Kishan Bansal and others

..... Revisionists

Versus

The Union of India and another

..... Respondents

CR No. 2883 of 1994 (O/M)

Dr. R.K. Bansal

..... Revisionist

Versus

Union of India and another

..... Respondents

CR No. 3073 of 1994 (O/M)

Hari Krishan Bansal

..... Revisionist

Versus

Union of India and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vijay Sharma, Advocate, for the revisionists,
in all the revisions.
Mr. Vivek Singla, Senior Panel Counsel,
for respondent No. 1-Union of India.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH, J. (ORAL)

This order of mine will dispose of CR No. 2882 of 1994,
CR No. 2883 of 1994 and CR No. 3073 of 1994, titles whereof are
given in the heading of the judgment, which are filed by the

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revisionist against the order dated 26.2.1994, passed by the Executing Court.

For brevity, the facts are taken from CR No. 2882 of 1994 titled as Daya Kishan Bansal and others Versus The Union of India and another.

The common issue arising for consideration from all the civil revision petitions is as to whether the Union of India is liable to pay the interest on the enhanced amount of compensation, if the awarded amount alongwith some excess amount is deposited much before the passing of the award and was refunded later on ?

The learned Additional District Judge, Rohtak, in the execution proceedings held that no interest is to be paid for the excess amount deposited by the Union of India before the passing of the award.

The short controversy involved in this case is that the land of the present revisionists was acquired and award in this regard was passed by the Land Acquisition Collector on 27.2.1984. However, the Union of India deposited the much more amount in advance than the amount awarded by the Collector, Rohtak, on 25.8.1983. After passing of the award, the excess amount deposited by the Union of India was refunded.

Later on, in a land reference, the learned Additional District Judge, Rohtak, enhanced the amount of compensation on

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13.10.1990. In Regular First Appeal filed before this Court, this Court enhanced the amount of compensation on 28.7.2015 from the original awarded amount of 'A' block from Rs. 200/- to Rs. 660/- per sq. yds. and for 'B' block, from Rs. 100/- to Rs. 475/- per sq. yds. Now, the question would arise as to whether the interest is liable to be paid on the enhanced amount, for the advance excess amount deposited by the Union of India ?

I am of the view that in this case, excess amount was deposited in anticipation of award without any notice to the decree-holder, asking him to collect the amount in advance. The mode of payment of the amount under decree laid down in Order 21 Rule 1 of Code of Civil Procedure, 1908 ('CPC') is as under :-

“ Payment under decree

1. Modes of paying money under decree.- (1) All money, payable under a decree shall be paid as follows, namely:-

- (a) by deposit into the Court whose duty it is to execute the decree, or sent to that Court by postal money order or through a bank ; or
- (b) out of Court, to the decree-holder by postal money order or through a bank or by any other mode wherein payment is evidenced in writing ; or
- (c) otherwise, as the Court which made the decree, directs.

(2) Where any payment is made under clause (a) or

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clause (c) of sub-rule (1), the judgment-debtor shall give notice thereof to the decree-holder either through the Court or directly to him by registered post, acknowledgment due.

(3) Where money is paid by postal money order or through a bank under clause (a) or clause (b) of sub-rule (1), the money order or payment through bank, as the case may be, shall accurately state the following particulars, namely:-

- (a) the number of the original suit ;
- (b) the names of the parties or where there are more than two plaintiffs or more than two defendants, as the case may be, the names of the first two plaintiffs and the first two defendants ;
- (c) how the money remitted is to be adjusted, that is to say, whether it is towards the principal, interest or costs ;
- (d) the number of the execution case of the Court, where such case is pending; and
- (e) the name and address of the payer.

(4) On any amount paid under clause (a) or clause (c) of sub-rule (1), interest, if any, shall cease to run from the date of service of the notice referred to in sub-rule (2).

xxxxxxx xxxxxxxx xxxxxxxx”

Rule makes it clear that if some payment is made under decree, the notice thereof has to be given to the decree- holder by registered post, acknowledgment due. Rule further lays down that the interest, if any, shall cease to run from the date of service of

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notice of such payment, referred to in rule.

In this case when the amount alongwith some excess amount was deposited by the Union of India, there was no award of any authority or court. Secondly, even no notice was issued to the decree-holder regarding deposit of the amount. The amount was never offered to be given to the decree-holder in anticipation of the award. After the passing of the award by the Collector, the excess deposited amount was refunded to the Union of India. It being so, it cannot be held that the Union of India is not liable to pay the interest on the enhanced amount of compensation as enhanced by the learned Additional District Judge, Rohtak, and as enhanced by this Court. It being so, the impugned order dated 26.2.1994 is set aside and it is held that the Union of India is liable to pay the interest on the awarded amount in terms of the award. The revisionists shall be at liberty to file fresh execution for recovery of balance compensation alongwith interest.

With these observations, the present revisions are disposed of.

(KULDIP SINGH)
JUDGE

14.10.2015
sjks