

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 2950 of 1995 (O&M)

Date of decision: 25.08.2015

State of Haryana

... Petitioner

versus

Shrimati Rukmani Devi

.... Respondent

2. CR No. 3392 of 1995 (O&M)

Shrimati Rukmani Devi

... Petitioner

versus

The State of Haryana and another

.... Respondents

3. CR No. 3391 of 1995 (O&M)

Manmohan Lal

... Petitioner

versus

The State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Ayuwan Singh, Assistant Advocate General, Haryana.

Mr. Amit Jain, Advocate for the respondent.

K.Kannan, J.

The issue of payment of interest for an amount determined as
compensation under the Land Acquisition Act is the subject at issue in all

the 3 civil revision petitions. The admitted case was that the land of the owner had been acquired in the year 1975 and the possession was taken on 17.01.1975. The acquiring authority had deposited the amount determined not in Court as the law enjoined but put it in revenue deposit. The claimant had the benefit of withdrawal of only the principal amount on 06.08.1984. The plaintiff is seeking for interest from the date of when the property was acquired and when the possession was taken and the entitlement has already been settled upto the decision of the Hon'ble Supreme Court and the present adjudication is the rate of interest and the actual amount that shall be due. The Executing Court has held that the decree-holder would be entitled to interest @ 6% from the date of taking the possession namely, from 17.01.1975 to 30.04.1982 and at the rate of interest from 30.04.1982 to 16.08.1984 which is the day when the principal amount was received by the land owner.

The objection by the land owners in the civil revision petitions filed by her are the subject matter in civil revision No. 3392 of 1995 and 3391 of 1995. CR No. 2950 of 1995 is the revision filed by the State aggrieved against the same order. CR No. 3391 of 1995 confronts the same issue but dates are different, namely, the date of taking the possession is 23.05.1985 and the date of receipt of payment is 11.12.1985 and during the time when the proceedings was pending, the Land Acquisition Amending Act 68 of 1984 had been brought about which was to be taking effect from 21.09.1984. Admittedly, the whole of the amount had not been paid and the land owner was entitled to rely on the transitional provision of Section 30 of the Amending Act. The Executing

Court has correctly reproduced the said Section and found the applicability of Section 30 (3a) possible for the land owner. The said provision is reproduced.

30. Transitional provisions:-

(1).....

(a).....

(b).....

(2).....

(3) The provisions of Section 34 of the principal Act, as amended by Section 20 of this Act, shall apply, and shall be deemed to have applied also to, in relation to,-

(a) Every case in which possession of any land acquired under the Principal Act had been taken before the 30th day of April, 1982 (the date of introduction of the land Acquisition (Amendment) Bill, 1982, in the House of the People and the amount of compensation for such acquisition had not been paid or deposited under Section 31 of the principal Act until such date, with effect on and from that date: and

(b).....

However, he has committed a mistake in allowing for interest @ 6% which was under the old Act. If the whole of the amount had not been paid and only the principal had been withdrawn, the land owner would be allowed the benefit of applicability of Section 34 of the Principal Act as amended. Section 34 of the Act is reproduced as under:-

34. Payment of interest-When the amount of such

compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of (nine percentum) per annum from the time of so taking the possession until it shall have been so paid or deposited.

(Provided that if such a compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of 15 per centum per annum shall be payable from the date or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.)

As per the said Section, if the amount is not paid or deposited, on or before taking possession of the land, the Collector shall pay the rent @ 9% from the time of taking the possession till the amount is deposited. Admittedly, the amount was not deposited in the Court to which a reference had been made but it would appear that the acquiring authority put the money in revenue deposit which cannot be taken to be a deposit in the eyes of law in the manner contemplated under the Land Acquisition Act. Consequently, the amount of interest shall be admissible @ 9% for the land owner from the respective date of taking possession namely, from 17.01.1975 for the land owner in CR No. 3392 of 1995 and in respect of the land owner in CR No. 3391 of 1995 from 23.05.1975. In this case, if there had been no deposit made in the Court for one year then as per the Proviso to Section 34, the interest would become payable @

15% till the date when the amount is paid. The amount paid for the land owner in CR No. 3392 of 1995 was on 16.08.1984 and interest would be calculated @ 15% from 17.01.1976 to 16.08.1984 and in respect of the land owner in CR No. 3391 of 1995 the interest @ 15% will be recoverable from 23.05.1976 to 11.12.1985.

The orders passed shall stand modified and the civil revision petition by the land owners; CR No. 3391 and 3392 of 1995 are allowed. The revision filed by the State in CR No. 2950 of 1995 is dismissed.

(K.KANNAN)
JUDGE

25.08.2015

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