

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.4070 of 2012 (O&M)

Date of decision : 25.08.2015

Union of India

...Petitioner

Versus

Gurdev Singh and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Ram Chander, Advocate for the petitioner.

Mr. Amit Aggarwal, Advocate for
respondents No.1, 3, 5, 6, 9 & 10.

AMIT RAWAL, J. (Oral)

Challenge in the present petition is to the order dated 01.03.2012 (Annexure P-5), whereby during the pendency of the execution application filed at the instance of the respondents, the Executing Court has held that Decree Holders are entitled for interest on solatium after adjusting the payment of the award amount by Judgment Debtors at the first instance against the interest and then cost and then the principal amount as per the judgment rendered by Hon'ble Supreme Court in *Gurpreet Singh Vs. Union of India 2008(2) R.C.R. (Civil) 207*.

Mr. Ram Chander, learned counsel appearing on behalf of petitioner submits that Land Acquisition Collector had passed the award on 21.03.1979. The respondents-Land Owners did not file the reference under

Section 18 of the land Acquisition Act, 1894 (hereinafter to be referred as 'the Act') but filed application under Section 28-A. The same was decided on 30.03.1993. While allowing such application, it has specifically been mentioned, that land owners would be entitled to solatium @ 30% on re-determined amount but not 12% p.a. of the market value.

He further submits that since the Collector did not award the interest on the solatium, therefore, the Decree Holders are not entitled to interest on the solatium but entitled to as per ratio decidendi culled out in *Sunder Vs. UOI, 2001(4) RCR (Civil) 727* that from the date when judgment *Sunder Singh's (supra)* came into operation i.e. w.e.f. 19.09.2001.

Mr. Amit Aggarwal, learned counsel appearing on behalf of respondents submits that respondents-land owners are entitled to interest on solatium from the date of decision on application filed under Section 28-A i.e. on 30.03.1993 and not from 19.09.2001. In support of his contentions, he has relied upon judgment of this Court in *Union of India Vs. Manjit Singh and ors. 2015(1) PLJ 195*.

I have heard learned counsel for parties and appraised the paper book.

There is no dispute to the fact that while deciding the application under Section 28-A of the Act, the Collector had not awarded interest on solatium but, Executing Court vide impugned order has directed the Union of India to pay interest on solatium. The question, now, to be determined by this Court is as to whether the Land Owners would be entitled to interest from the date of decision on their application under Section 28-A or from 19.09.2001 when, the judgment of *Sunder Singh* came

into operation.

In order to determine aforementioned controversy, I rely upon operative paragraph, of the constitutional judgment, rendered in Gurpreet Singh (Supra), which reads thus:-

“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 the counsel to address us on that question. That question is whether in the light of the decision in Sunder, 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 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 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 execution and not in closed executions and the execution court will be entitled to permit its recovery from the date of the judgment in Sunder 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.”

On going through the operative part of judgment rendered in Gurpreet Singh's case, it leaves no manner of doubt where the reference or the award does not entail the element of interest on solatium and execution petition is pending, the land owners would be entitled to interest on solatium from the date of judgment rendered in Sunder Singh's case and not for the period prior thereto. From the language enshrined in the impugned order, it does not clearly specify the awarding of interest on solatium from date of decision of application u/s 28-A or from judgment rendered in Sham Sunder's case, thus, in the absence of any clarification, it is directed that land owners would be entitled to interest on solatium from the date of decision in Sham Sunder's case. In view of the ratio decidendi culled out by Hon'ble Supreme Court, it is clarified that land owners, would be entitled to interest on solatium from the date of judgment in Sunder Singh's case.

Accordingly, impugned order is modified.

With the, aforementioned, modification, the remaining part of the impugned order remains intact.

Revision petition is disposed of in abovesaid terms.

25.08.2015

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**(AMIT RAWAL)
JUDGE**