

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

CR No.456 of 2015 (O&M)
Date of decision : 25.10.2016

Punjab State Electricity Board and another

...Petitioners

Versus

Surjeet Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. J.P.S. Sandhu, Advocate for the petitioners.

Mr. Amandeep Chabra, Advocate for the respondents.

AMIT RAWAL, J. (Oral)

The petitioner(s)-Electricity Board are aggrieved of the impugned order dated 19.09.2014, whereby objection of the petitioner-Judgment Debtor vis-a-vis the execution of the judgment and decree dated 10.03.2010 passed by the Reference Court enhancing the amount of compensation at the rate of Rs.8,00,000/- per acre with interest at the rate of 12% p.a. along with solatium at the rate of 30% p.a. + permissive clauses of Section 23(1)A of the Land Acquisition Act, has been decreed in favour of Decree Holder.

Mr. J.P.S. Sandhu, learned counsel appearing on behalf of petitioners submits that award of the Reference Court has been complied in toto. There is no illegality and perversity. The Decree Holder is

unnecessarily realizing the amount towards interest instead of apportioning of principle interest which is not in accordance with the ratio decidendi culled out by Hon'ble Supreme Court in *Gurpreet Singh Vs. Union of India*, 2008(2) RCR (Civil) 207. The executing Court has not taken into consideration the calculation submitted and had arrived at erroneous findings calling upon them to pay a sum of Rs.11,40,546/- as on 31.08.2014, thus, order under challenge is not sustainable in the eyes of law.

Mr. Amandeep Chabra, learned counsel appearing on behalf of respondents submits that order under challenge is perfect, legal and justified. There is no illegality and perversity. Electricity Board has not deposited the amount on time and therefore interest kept on increasing and only amount of Rs.11,76,000/- was deposited whereas it burgeoned to Rs.21,18,600/-, therefore, order is as per record.

I have heard learned counsel for parties and appraised the paper book and of the view that calculation vis-a-vis judgment and decree passed by the Reference Court has to be determined in pursuance of law laid down by Hon'ble Supreme Court in Gurpreet Singh's case (Supra).

Decree Holder is to appropriate the amount, first towards the satisfaction of interest and then towards cost and then towards principles. The aforementioned aspect has not been taken care of, thus, in view that, matter is liable to be remitted back with a direction to parties to furnish fresh calculation in pursuance to the dictum laid down by Hon'ble Supreme Court in Gurpreet Singh's case (Supra), particularly when there is shortfall in the amount of deposit, the decree holder is entitled to apply the Rule of appropriation, first towards the interest and then towards cost and

then towards principle but the fact remains that to the extent of deposit, there shall be no further interest payable, thereon, in favour of Decree Holder. The aforementioned aspect has not been taken care of by the Courts below.

Impugned order is, therefore, set aside.

Accordingly, matter is remitted back to the executing Court to decide the execution application in view of the observation made hereinabove, preferably this exercise should be done within three months.

Parties as well as through their counsel are directed to appear before executing Court on 01.12.2016 and executing Court shall decide the execution application within a period of three months from the date of receipt of certified copy of this order.

Accordingly, present revision petition is disposed of.

25.10.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No