

Civil Revision No.7111 of 2015

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.7111 of 2015

Date of Decision:31.5.2016

Randhir Singh through Lrs Maneesh Bawa and others

---Petitioner

vs.

State of Punjab and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Rajbir Singh, Advocate
for the petitioner
Mr. T.N.Sarup, Addl. A.G.Punjab

1. Whether Reporters of local papers 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?

Rekha Mittal, J.

By invoking Article 227 of the Constitution of India, the petitioner (since deceased represented through his legal representatives)

prays for setting aside/modifying the order dated 26.10.2013 (Annexure P-5) passed by the Additional District Judge, Amritsar whereby the petitioner has been held entitled to future interest from the date of filing of application for execution instead of from the date of taking over possession of land acquired under the Land Acquisition Act, 1894 (for short “the Act”).

Counsel for the petitioner would contend that co-sharers of the petitioner namely Darshan Singh and Balwinder Singh sons of Banta Singh filed a petition under Section 18 of the Act that came to be decided by the Additional District Judge, Amritsar vide judgment dated 21.3.2005. As claim of co-sharers of the petitioner qua enhancement of compensation alongwith statutory benefits and payment of interest was allowed vide award (Annexure P-1), the petitioner filed an application for execution of the award for grant of benefits as has been allowed to his co-sharers. It is argued that the executing court has accepted claim of the petitioner qua payment of compensation on the basis of award dated 21.3.2005 but he has been held entitled to future interest from the date of filing of petition (execution) instead of from the date of taking over possession as has been allowed to Darshan Singh and another vide Annexure P-2. It is argued with

vehemence that since the petitioner has been held entitled to enhanced compensation alongwith statutory benefits and the money to which the petitioner has been entitled to has been retained by the respondent, there is no reason to deny interest from the date of depriving him of possession of acquired land instead of from the date of filing of the execution petition. It is further argued that the executing court has not assigned any reason much less adopting any process of reasoning to differentiate case of the petitioner viz-a-viz his co-sharers with regard to the date from which the interest is payable.

Counsel for the respondent, on the contrary, has supported the impugned order with the submissions that as the petitioner filed an application for execution without seeking any reference either under Section 18 or Section 28-A of the Act, the executing Court has rightly held that he is entitled to future interest from the date of filing of the petition. However, he has conceded that the respondents have not challenged the impugned order with regard to entitlement of the petitioner to compensation in consonance with the award dated 21.3.2005 passed in favour of co-sharers of the petitioner.

I have heard counsel for the parties, perused the paper book particularly the award (Annexure P-1) and the impugned order (Annexure P-5).

Concededly, the respondents have not challenged entitlement of the petitioner to the enhanced compensation on the basis of award dated 21.3.2005 passed in favour of co-sharers of the petitioner namely Ranbir Singh, Darshan Singh and Balwinder Singh. The Land Acquisition Tribunal (in short “the Tribunal”) besides allowing enhancement of compensation qua market value of the acquired land also allowed benefit of solatium at the rate of 30% on the market value for consideration of the compulsory nature of acquisition as per Section 23(2) of the Act plus interest at the rate of 12% per annum from the date of publication of notice under Section 4(1) of the Act i.e. 29.6.1988 to the date of taking over possession of the acquired land. The award holders are further held entitled to interest at the rate of 9% per annum over the difference of compensation assessed by the Collector and by the Tribunal for a period of one year from the date on which the possession was taken and thereafter at the rate of 15% till the date of payment of the amount of award. In absence of any justifiable reason to

treat the petitioner differently viz a -viz his co-sharers, I find merit in contention of counsel for the petitioner that once the petitioner has been held entitled to benefit of enhancement of compensation on the basis of award passed in favour of his co-sharers, there is no reason of his being deprived of benefit of interest at the same rate and from the same date that has been allowed in favour of his co-sharers. The executing court has not assigned any reason for drawing a distinction between case of the petitioner and that of the award holders in order to deny him benefit of future interest at par with that of his co-sharers. Counsel for the respondent has not pointed out any provision in law or a precedent that can support the view taken by the Executing court, beneficial to the respondents. That being so, the impugned order is modified to the extent that the petitioner shall be entitled to interest at par with his co-sharers, in view of the award dated 21.3.2005.

For the foregoing reasons, the petition is allowed in the aforesaid terms.

(Rekha Mittal)
Judge

31.5.2016
paramjit