

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

**1. Civil Revision No.2688 of 2016
Date of Decision: 21.12.2017**

**JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner**

**Vs
KARTAR SINGH & ORSRespondents**

2. Civil Revision No.2689 of 2016

**JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner**

**Vs
BHAJAN KAUR & ORSRespondents**

3. Civil Revision No.2690 of 2016

**JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner**

**Vs
PRITAM SINGH & ORSRespondents**

4. Civil Revision No.2691 of 2016

**JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner**

**Vs
MALKIAT SINGH & ORSRespondents**

5. Civil Revision No.2692 of 2016

**JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner**

**Vs
JOGINDER SINGH & ORSRespondents**

6. Civil Revision No.2693 of 2016

**JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner**

Vs
MEHNGA SINGH & ORSRespondents

7. Civil Revision No.2694 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs
BALBIR KAUR & ORSRespondents

8. Civil Revision No.2695 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs
SADHU SINGH & ORSRespondents

9. Civil Revision No.2696 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs
MOHINDER SINGH & ORSRespondents

10. Civil Revision No.2697 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs
TIRATH RAM & ORSRespondents

11. Civil Revision No.2698 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs
KULWANT SINGH & ORSRespondents

12. Civil Revision No.2699 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs
GURMIT SINGH & ORSRespondents

13. Civil Revision No.2700 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs
AJIT SINGH & ORS **....Respondents**

14. Civil Revision No.2701 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs
SAROOP SINGH & ORS **....Respondents**

15. Civil Revision No.2702 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs
NACHHATTAR PAL & ORS **....Respondents**

16. Civil Revision No.2703 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs
MOHINDER SINGH & ORS **....Respondents**

17. Civil Revision No.2461 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs
GURBAKSH SINGH & ORS **....Respondents**

18. Civil Revision No.2759 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs
MALKIAT SINGH & ORS **....Respondents**

19. Civil Revision No.2787 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs

FAQIR CHAND THRU LRS. MOHAN LAL & ORS
....Respondents

20. Civil Revision No.2798 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs

CHANAN SINGH & ORSRespondents

21. Civil Revision No.2799 of 2016

JALANDHAR IMPROVEMENT TRUST, JALANDHAR
.....Petitioner

Vs

BALDEV SINGH & ORS sRespondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. S.C. Pathela, Advocate
for the petitioner.

Mr. Harsh Bunger, Advocate
for respondent No.1.

Mr. Charanpreet Singh, A.A.G., Punjab
for respondents No.2 and 3.

RAJ MOHAN SINGH, J.

[1]. Vide this common order CR Nos.2688, 2689, 2690, 2691, 2692, 2693, 2694, 2695, 2696, 2697, 2698, 2699, 2700, 2701, 2702, 2703, 2461, 2759, 2787, 2798 and 2799 of 2016 are being decided as similar controversy is involved in all these revision petitions. For brevity, facts have been culled out from CR No.2688 of 2016.

[2]. Petitioner-Improvement Trust has assailed the order dated 24.12.2015 and order of attachment dated 07.01.2016 passed by the Civil Judge (Sr. Divn.) Jalandhar in execution filed by the decree-holder/respondent No.1.

[3]. Brief facts are that the land measuring 70.50 acres situated at G.T. Road Bye Pass Jalandhar was acquired by the Government for a developmental Scheme of the petitioner-Trust vide notification dated 27.05.2005 sanctioned under Section 42 of the Punjab Town Improvement Act, 1922. The award was passed on 25.05.2007 by the Land Acquisition Collector, Jalandhar. As per the award, 30% solatium was awarded under the amended provision of the Land Acquisition Act, 1984 (hereinafter to be referred as the 'the Act') on the market value of the land, structures, tubewells, trees and fruit trees and 12% increase was given on the market value from the date of notification till passing of the award i.e. 31.05.2004 to the date of announcement of the award.

[4]. The total compensation awarded under Section 11 of the Land Acquisition Act, 1984 was to the following effect:-

1.	<i>Compensation for land measuring 714 Kanals 17 Marlas i.e. 14297 marlas @ Rs.24,000/- per Marla.</i>	<i>Rs.31,31,28,000.00</i>
2.	<i>Compensation for superstructures</i>	<i>Rs.1,30,22,021.00</i>
3.	<i>Compensation for Wells/Tubewells</i>	<i>Rs.1,08,534.00</i>
4.	<i>Compensation for non fruit trees</i>	<i>Rs.58,795.00</i>

5.	Compensation for fruit trees	Rs.13,589.00
	<i>Total</i>	Rs.35,63,30,939.00
6	30% Solatium on Rs.35,63,30,939.00	Rs.10,68,99,281.00
	12% increase from 31.5.2004 to 25.05.2007 i.e. 2 yrs 11 months 25 days (i.e. 1090 days) on Rs.35,63,30,939.00	Rs.12,76,93,383.55
7		
	<i>Grand Total</i>	Rs.59,09,23,609.25

Rs. Fifty Nine Crores Nine Lacs Twenty Three Thousand Six Hundred Nine and Paisa Twenty Five only.

[5]. The aforesaid award also contained the following recital in the heading of Apportionment and Possession:-

“Apportionment

The Jalandhar Improvement Trust, Jalandhar had deposited a sum of Rs.48,00,00,000/- towards amount of part compensation of the award with the undersigned vide Trust memo No. JIT/8623 dated 31.3.2006 & Memo No.JIT/6626 dated 05.12.06, Rs.3,09,92,916.78 vide Memo No.JIT/7627 dated 12.01.2007 and Rs.7,99,30,692.47 vide Memo No. JIT/1046 dated 24.05.2007. Thus the total awarded amount Rs.59,09,23,609.25 has been deposited by Trust.”

Possession

The possession of land etc. shall be taken over and handed over to Improvement Trust Jalandhar after tendering the amount of compensation to the land owners/claimants in accordance with the procedure laid down by law.”

[6]. As per Annexure P-3 with the revision petition, copy of *Rapat Roznamacha* dated 14.08.2007 was entered in respect of

taking physical possession of the acquired land with reference to *khasra* numbers and area.

[7]. As per the calculations made by the petitioner-Tribunal, the acquired area of the petitioner-Tribunal was 48 *Marlas* of land. The market value was assessed @ Rs.24,000/- per *marla* and the amount was calculated to be 11,52,000/-. 30% solatium was assessed to the tune of Rs.3,45,600/-. An increase to the tune of Rs.4,12,826.30 was added and in this way total amount was assessed to be Rs.19,10,426.30. After deduction towards TDS, the net amount was assessed to be Rs.18,54,284.30 and the said payment was made vide cheque No.345507 on 18.09.2007.

[8]. Learned counsel for the petitioner submitted that the market value of the acquired land at the time of issuance of Notification under Section 4 of the Act to which increase of 12% was applied on the market value under Section 23(1A) of the Act from the date of notification till the date of award or date of taking of possession whichever is earlier. Under Section 23(2) of the Act 30% solatium on the market value was applied and thereafter the calculations were made as shown in preceding part. The total calculations of the compensation were in respect of entire land to which proportionate calculations were made as shown in the case of the petitioner. 12% increase on the market

value was calculated from 30.05.2004 to 25.05.2007 for a period of 2 years 11 months and 25 days and 30% solatium was separately assessed.

[9]. Learned counsel further submitted that the market value with an addition of 30% and 12% increase was calculated and the said amount was paid on 18.09.2007. As per *rapat roznamcha* the possession was delivered on 14.08.2007. Section 28 of the Land Acquisition Act, deals with the enhanced amount and the interest payable thereon. Under this provision, the Collector is required to award interest on the enhanced/excess compensation awarded by the Tribunal @ 9% from the date of taking possession till final realization of the excess amount. Where such excess amount or part thereof is paid after the expiry of one year from the date of taking possession, the interest @ 15% would be payable from the date of expiry of one year and on the amount of such excess or part thereof.

[10]. Learned counsel further submitted that the reference Court did not enhance any compensation. The award of the Land Acquisition Collector was upheld by the reference Court and the references were dismissed on 27.05.2013. However, the reference Court held the landowners entitled to recover the interest on solatium and additional market value. The only

grouse of the petitioner is that since the amount of compensation was paid soon after passing of the award and delivery of possession, therefore, the interest is not payable particularly when no enhancement was made by the reference Court. Whatever amount was calculated under Section 23 of the Act the same stood paid on 18.09.2007.

[11]. On the other hand, learned counsel for respondent No.1 submitted that interest is to accrue as per Section 34 of the Act. In **Sunder vs. Union of India, 2001(4) R.C.R. (Civil) 727** the Hon'ble Apex Court considered the question of payment of interest as would arise only when the compensation is not paid or deposited on or before taking possession of the land. It is inequitable that the person who is deprived of the possession of the land, on account of the acquisition proceedings is not given the amount which law demands to be paid to him. Any delay thereafter, would only be to his detriment. The provisions in terms of Section 34 of the Act was made to meet out the said exigency, where 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 @ 9% per annum from the time of so taking possession until it shall have been so paid or deposited. Provided further that if such a compensation or any part therein is not paid or deposited

within a period of one year from the date on which possession is taken, the interest @15% per annum shall be payable from the date of expiry of 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.

[12]. Learned counsel further submitted that it is the legal obligation of the Collector to pay the compensation awarded by him to the party entitled thereto. The compensation awarded would include not only the total sum arrived at as per sub-Section (1) of Section 23 of the Act, but the remaining sub-sections thereof as well. The language of Section 34 of the Act would show that the expression “awarded amount” would mean the amount of compensation worked out in accordance with the provisions contained in Section 23 of the Act including all the sub-Sections thereof. The Hon'ble Apex Court in para No.24 of the **Sunder 's** case (supra) held as as under:-

“24. The proviso to Section 34 of the Act makes the position further clear. The proviso says that "if such compensation" is not paid within one year from the date of taking possession of the land, interest shall stand escalated to 15% per annum from the date of 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". It is inconceivable that the solatium amount would attract only the escalated rate of interest from the

expiry of one year and that there would be no interest on solatium during the preceding period. What the legislature intended was to make the aggregate amount under Section 23 of the Act to reach the hands of the person as and when the award is passed, at any rate as soon as he is deprived of the possession of his land. Any delay in making payment of the said sum should enable the party to have interest on the said sum until he receives the payment. Splitting up the compensation into different components for the purpose of payment of interest under Section 34 was not in the contemplation of the legislature when that section was framed or enacted.”

[13]. Learned counsel by referring to the calculations pointed out that 30% solatium to the tune of Rs.10,68,99,281.70 was calculated on the total market value of the total land i.e. Rs.35,63,30,939.00. In view of ratio of **Bhanushankar Oghadbhai Mehta (D) by LRs vs. Gujarat Industrial Development Corporation Limited & Anr., 2016(7) Scale 521** and **Chimanlal Kuberdas Modi (dead) by LRs vs. Gujarat Industrial Development Corporation and others, 2010(10) SCC 635**, learned counsel submitted that interest has to be paid on the amount of solatium. The market value of the acquired land has to be assessed on the date of issuance of Notification under Section 4 of the Act. 30% solatium and 12% increase under Section 23(1A) of the Act are the sub-components of Section 23 of the Act which in totality has to be considered as in

expression 'awarded amount'. In view of ratio in **Sunder's** case (supra) the amount towards solatium would accrue along with the market value of the acquired land and till the possession is taken or the amount is deposited, the award towards solatium shall also accrue interest at the rate prescribed under the Act. Solatium and statutory interest are part of compensation and interest is payable.

[14]. I have considered the submission made by learned counsel for the parties.

[15]. The executing Court while dealing with the controversy has observed in the impugned order to the following effect:-

“Heard. It is the contention of the JD that solatium has already been paid, as such, there is no interest payable thereon and accordingly, the present application is not maintainable. However, it is contended by the counsel for the DH that the Tribunal had awarded interest on the solatium and additional market value as held by Hon'ble Supreme Court in Sunder's case and as mentioned in the paragraph 199 of the Award of the Tribunal and there is nothing on record to suggest that the interest on the solatium has been paid. The JD be directed to make the payment of interest on the solatium.

Perusal of the file reveals that whereas the DH has claimed the interest on the solatium and JD has also come forward with the plea that the amount which calculated by the Collector has been paid through cheque in the year 2007 itself, as such, no further interest is

payable. However, the award of the Tribunal specifically refers to the effect that interest is payable on the solatium. Accordingly, interest shall be payable as per award. JD has not come forward to make payment even after almost two years. As such, in order to effect the recovery of the amount, warrant of attachment of property of the JD is ordered to be issued for 30.01.2016 on filing of list of property within 15 days.”

*Dated: 24.12.2015 (Deepak Kumar Choudhary)
Civil Judge (Sr. Divn.) Jalandhar”*

[16]. Perusal of the aforesaid order would show that the award has been applied without referring to the date of deposits made in respect of total compensation assessed and nor the date of taking of possession has been referred. Evidently, the compensation has to be paid after assessing the same under different heads of components of Section 23 of the Act. If the amount of compensation is not paid or deposited within a period of one year from the date of taking possession, the interest @ 15% per annum shall be payable from the date of expiry of said period of one year. As per pleadings on record, the date of taking possession was alleged to be 14.08.2007 and the amount was paid on 18.09.2007.

[17]. Even though the impugned order is non-speaking to some extent as to the manner in which interest is calculated on the solatium and additional market value which were added up towards total compensation as on 25.05.2007 and payment was

made on 18.09.2007, but in view of the calculations shown on record, the amount towards 30% solatium was assessed to be Rs.10,68,99,281.70 and proportionate share of the petitioner was calculated to be Rs.3,45,600/- as per the calculations submitted by the petitioner, therefore, in view of ration laid down in **Bhanushankar Oghadbhai Mehta (D) by LRs** and **Chimanlal Kuberdas Modi (dead) by LRs'** cases (supra), the interest has to be calculated on the solatium.

[18]. In view above, these revision petitions are found to be totally devoid of merits, however calculations submitted by the petitioner on factual basis are subject to objection (if any) by the respondents.

[19]. In view of above, the revision petitions are dismissed.

December 21, 2017

Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No