IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision:08.12.2017

1. CR No.403 of 2016

Union of India

….. Petitioner

Versus

Fateh Singh and Others

….. Respondents

2. CR No.2168 of 2016

Union of India

…. Petitioner

Versus

Smt. Bhullan (D) and others

…. Respondents

3. CR No.2111 of 2016

Union of India

…. Petitioner

Versus

Baljeet Singh & Others

…. Respondents

4. CR No.14 of 2017 (O&M)

Union of India and another

…. Petitioners

Versus

Ved Parkash Aggarwal & another

…. Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Vivek Singla, Advocate for the petitioners - Union of India.
Mr. Anurag Jain, Advocate for respondents.
Mr. Kuldeep Khandelwal, Advocate for respondent No.1 (in CR No.14 of 2017).
Mr. Ravi Pratap, AAG, Haryana.

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B.S. Walia, J. (Oral)

[1] This order will dispose of CR No.403 of 2016 titled Union of India v. Fateh Singh and others, CR No.2168 of 2016 titled Union of India v. Smt. Bhullan (since Deceased) and others, CR No.2111 of 2016 titled Union of India v. Baljeet Singh and others and CR No.14 of 2017 titled Union of India and another v. Ved Parkash Aggarwal and another, as common point is in issue. For the sake of convenience, facts have been taken from CR No.403 of 2016 titled Union of India v. Fateh Singh and others.

[2] Notice of motion was issued on the contention of the learned counsel for the petitioner that the decree holders/respondents had not been awarded interest on additional amount under Section 23 (1-A) and solatium under Section 23 (2) by the reference Court or any higher Court though statutory benefits had been allowed by the Courts as also that the decree holder was claiming interest on solatium and additional amount with effect from the date of delivery of possession, but in view of the law laid down by the Constitution Bench of the Hon'ble Supreme Court in **Gurpreet Singh v. Union of India, 2008 (2) RCR (Civil) 2007** at best, interest on solatium and additional amount was payable not from the date of delivery of possession but from the date of judgment i.e. 19.09.2001, in the case of **Sunder v. Union of India, 2001 (4) RCR (Civil) 727**.

[3] Learned counsel for the appellant has reiterated the submissions as noted above.

[4] *Per Contra* learned counsel for the respondents contented that the reference Court in paragraph No.29 on Issue No.3 with regard to relief in its judgment dated 24.04.1989 (Annxure P-3) had while assessing the market value of the acquired land awarded additional amount at the rate of 12% per annum in terms of Section 23 (1-A) of the market value plus solatium at the rate of 30% of the market value, under Section 23 (2) of the Land Acquisition Act, 1894 along with interest at the rate of 9% per annum from the date of dispossession and at the rate of 15% per annum for the period subsequent thereto till the deposit of total balance payment.

[5] Learned counsel for the respondents referred to the paragraph No.13 of the decision of this Court dated 29.11.1990 passed in **RFA No.1155 of 1989 titled as Chander Prakash v/s state of Haryana** [1991 (1) PLR 468] which was allowed and the appeals filed by the State of Haryana were dismissed and the respondents/claimants were further held entitled to the grant of statutory benefits as per the amended provisions of the Land Acquisition Act i.e. Sections 23 (1-A), 23 (2) and 28. On the basis of the same, learned counsel contends that it is factually incorrect that the learned reference Court had not awarded interest on solatium or the additional amount by the reference Court. Learned counsel for the respondents further referred to a decision of this Court dated 3.2.2016 in **CR No.690 of 2016 titled as Union of India v/s Bhalla ram and another** to contend that the question with regard to allowing of interest by the executing Court on the solatium for a period even prior to the decision in Sunder v. Union

of India (supra) and in the context of decision of the Hon'ble Supreme Court in Gurpreet Singh v. Union of India (supra) was considered and by taking note of the proposition as considered in Gupreet Singh's case which is as under:-

(i) If there is claim for interest on solatium made by a claimant and it has been impliedly or expressly denied by the decision of the Reference Court or the Appellate Court, the interest cannot be claimed for any period before the decision in Sunder's case (supra).

(ii) If the Reference Court or the Appellate Court does not specifically refer to the question of interest on solatium and where the claim has not been made and not rejected then it would be open for an Executing Court to apply the ratio decidendi of Sunder's case to say that the compensation awarded includes solatium as well.

In the aforementioned background it was held that if claim was not specifically made for interest on solatium and the Court had no occasion to specifically or impliedly decline the same and further amount received by the decree holder in execution prior to the decision in Sunder's case had not concluded the proceedings by issuance of a full satisfaction, the land owner was always competent to secure interest on solatium, even if any amount had been received prior to the decision in Sunder's case.

[6] Learned counsel contented that the case of the respondents was on a better footing than in the case of Union of

India v. Bhalle Ram and others (supra) inasmuch as the learned reference Court vide judgment dated 24.04.1989 (Annexure P-2) had awarded not only 12% additional amount under Section 23 (1-A) on the market value of the land but also 30% solatium on the market value under Section 23 (2) and the decision of the reference Court had been upheld by the Appellate Court in RFA No.1155 of 1989 (Annexure P-3) and the same had been upheld even upto the Apex Court.

[7] I have considered the submissions of learned counsel for the parties. In the instant case the claim for interest on solatium made by the respondents-claimants was not only granted by the reference Court but was upheld right upto the Hon'ble Supreme Court by award of interest at the rate of 9% for the first year from the date of dispossession and at the rate of 15% per annum thereafter for the subsequent period till date of deposit of the balance payment in Court. Therefore, interest would be payable in terms of the decision of the Hon'ble Supreme Court in Sunder's case (supra) i.e. with effect from the date of dispossession.

[8] Accordingly, the revision petition being without merit is dismissed. The executing Court shall proceed with the execution in accordance with law and the parties would be at liberty to submit fresh calculations in the light of the decision as recorded herein.

(B.S. Walia)
Judge

08.12.2017

amit

Note:

1. Whether the order is speaking/reasoned : Yes/No.
2. Whether the order is reportable : Yes/No.