

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 847 of 1999 (O&M)

Date of Decision: 17.04.2017

Ram Kishan Singh and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. C.B. Goel, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. Advocate General, Haryana.

Mr. Vivek Singla, Advocate for UOI.

RAJESH BINDAL,J.

Petitioners have filed the present petition seeking a direction for making payment of amount of compensation as awarded by this Court vide order dated 15.07.1985 passed in C.M. No. 1893-CII of 1985 in FAO No. 74 of 1984.

Learned counsel for the petitioners submitted that the land owned by the predecessor-in-interest of the petitioners was acquired under the provisions of the Requisitioning and Acquisition of Immovable Property Act, 1952. The predecessor-in-interest of the petitioners being not satisfied with the compensation awarded by the Collector, sought its re-determination. Arbitrator was appointed. Against the award of the Arbitrator also, the matter came upto this Court in FAO No. 301 of 1980 which was disposed of on 15.12.1980. Thereafter the predecessor-in-interest of the petitioners and other land owners filed application under Sections

this Court in appeal. Vide order dated 15.07.1985 the application was allowed and the earlier order passed by this Court was modified. The applicants were held entitled to increased amount of interest and solatium. Despite that order the amount has not been paid till date.

On the other hand, learned counsel for the respondents submitted that the award could not be modified in an application under Sections 152/153 read with Section 151 CPC while relying upon a subsequent judgment as that cannot be said to be clerical and arithmetical errors. The application filed by the predecessor-in-interest of the petitioners was disposed of in terms of detailed order passed in C.M. No. 1893-CII of 1985 in FAO No. 74 of 1984.

The land owners filed a bunch of writ-petitions in this Court seeking a direction for payment of compensation in terms of the modified order. The writ petitions were disposed of vide order dated 17.1.1995 directing payment of compensation. The order was challenged by the Union of India before Hon'ble the Supreme Court vide Civil Appeal No.4457 of 1997 which was allowed vide order dated 7.7.1997 and the order dated 17.1.1995 passed by this Court, was set aside. Once even other land owners have not been held entitled to receive the enhanced amount of compensation and solatium, the petitioners who were awarded that in terms of the same order passed by this Court, the petitioners are also not entitled to receive the same.

Heard learned counsel for the parties and perused the paper book.

The undisputed facts on record are that on account of acquisition of the property owned by the predecessor-in-interest of the

petitioners, compensation was paid. The land owners being dis-satisfied, appointment of Arbitrator was prayed for. Even against the award of the Arbitrator, the matter came upto this Court. FAO No. 301 of 1980 was filed by the predecessor-in-interest of the petitioners which was disposed of on 15.12.1980 assessing the compensation and awarding statutory benefits. The predecessor-in-interest of the petitioners being satisfied did not challenge the order passed by this Court any further. C.M. No. 3137-CII of 1986 in FAO No. 301 of 1980 was filed, which was disposed of on 15.07.1986 in terms of order dated 15.7.1985 passed in C.M. No.1893-CII of 1985 in FAO No. 74 of 1984, directing grant of statutory benefits such as interest and solatium at the revised rate. The petitioners have filed the present petition praying that the benefit as granted by this Court vide order dated 15.07.1985, passed in C.M. No. 1893-CII of 1985 in FAO No. 74 of 1984 filed under sections 152/153 read with Section 151 CPC, have not been paid.

The other land owners in whose cases similar benefit was granted while modifying the order passed in appeal, filed a bunch of petitions bearing CWP Nos. 6850 to 6861 of 1994, the same were disposed of vide detailed order dated 17.1.1995 passed in CWP No. 6853 of 1994 titled as "Dhoop Singh etc. Versus The State of Haryana etc". Direction was issued for payment of amount along with interest. Being dis-satisfied UOI challenged the aforesaid order before Hon'ble the Supreme Court Vide C.A. No. 4457 of 1997. The same was set aside vide order dated 7.7.1997, which reads as under:

"Leave granted.

Notification under requisition and acquisition of Immovable Property Act, 1952 (for short, the 'Act') was

published on June 11, 1971 acquiring the land for defence purposes. The Collector passed the award on August 18, 1971. On an application for appointment of Arbitrator under Section 8(2) of the Act, the arbitrator was appointed and the award was given on December 1, 1979. Feeling aggrieved by the award, the respondent filed a writ petition in the High Court for further enhancement which was dismissed on December 15, 1980; it upheld the award of the arbitrator. The special leave petition filed in this court was dismissed on May 7, 1982. After the Land Acquisition Amendment Act (68 of 1984) was enacted, an application under sections 151, 152, 253 and 154 CPC was filed for payment of enhanced solatium and interest under section 23(2) and 28 of the Land Acquisition Act. The Order was passed awarding enhanced solatium and interest. Thus, this appeal by Special leave.

It is settled law by catena of decision of this Court that the solatium and interest is not permissible when the property is requisitioned and acquired under the Requisition and Acquisition of Immovable Property Act, 1952. Consequently the provisions of Act 68 of 1984 have no application to the acquisition under the Act. Therefore, the award of the enhanced solatium and interest by way of amendment of the award is without jurisdiction and authority of law."

A perusal of the aforesaid order passed by Hon'ble the Supreme Court shows that the order passed by this Court directing payment of enhanced rate of interest and solatium, in terms of the order passed in an application filed under Sections 152/153 read with Section 151 CPC, was set aside. Resultantly, the other land owners who were granted benefit similar to what was granted to the predecessor-in-interest of the petitioners

were not paid any amount.

Keeping in view the fact that the other land owners in whose favour orders were passed by this Court in application under Sections 152/153 read with Section 151 CPC have not been paid interest and solatium at the enhanced rate, orders passed by this Court directing payment of amount in terms thereof having been set aside by Hon'ble the Supreme Court, in our opinion, the petitioners are also not entitled to that amount. The writ petition is accordingly dismissed.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

17.04.2017
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Whether speaking/reasoned	√ Yes/No
Whether Reportable:	Yes/No