

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition No.2695 of 2018

ORDER:

The petitioners/D.Hrs having been aggrieved by the order dated 19.01.2018 in E.P.No.12 of 2009 in O.P.No.10 of 1989 passed by the Senior Civil Judge, Suryapet, declining the interest on additional market value of the property acquired, filed the instant CRP.

2) Heard arguments of Sri N.Praveen Reddy, learned counsel for petitioners and learned Government Pleader for Arbitration (AP).

3) The point for determination in this CRP lies in narrow compass and can be framed thus:

“What components shall include in the term “amount awarded” for the purpose of computation of interest under Section 34 of Land Acquisition Act, 1894?”

4) **POINT:** The facts shorn-off unnecessary details would tell us that the revision petitioners/deed holders filed E.P.No.12 of 2009 under Order 21 Rule 43 CPC for attachment of movable properties of the respondent/J.Dr. Pending the E.P, it appears that the J.Dr paid an amount of Rs.18,52,939/- on 16.11.2011. Therefore, the deed holders filed a calculation memo dated 22.08.2017 before the execution court showing that after deducting the amounts periodically received from the J.Dr, still an amount of Rs.3,40,419/- was due to the D.Hrs. While filing the aforesaid memo, the interest was calculated by the D.Hrs on the market value + additional market value and solatium. The execution court disagreed with the said calculation to the extent of petitioners

claiming interest also on additional market value apart from market value and solatium and held that the petitioners under law do not deserve interest on additional market value. In the opinion of the execution court, the petitioners would be entitled to interest on market value and solatium alone. In the impugned order calculation made by the execution court went on such premise and the execution court ultimately held that the decree holders received the total amount which was due to be paid by J.Dr as on 11.11.2011 and since the D.Hrs included the additional market value with the total compensation amount, their calculation was not tallying with the calculation filed by the J.Dr and as such claim made by the D.Hrs is incorrect and accordingly, dismissed the petition. Hence the CRP.

5) Learned counsel for petitioners/D.Hrs to buttress his argument that for the purpose of calculation of interest along with the market value and solatium, additional market value has also to be taken into consideration relied upon the following judgments of the Apex Court:

i) *State of Punjab v. Amarjit Singh and another*¹

ii) *General Manager, Oil and Natural Gas Corporation Limited v. Rameshbhai Jivanbhai Patel and another*²

i) In *Amarjit Singh*'s case (1 supra), the Apex Court observed that additional market value also forms part of the "amount awarded" i.e, total compensation for payment of interest under Section 34 of the Act.

It held thus:

¹ (2011) 4 SCC 734

² (2008) 14 SCC 745

“Para 12: Thus a person whose land is acquired is entitled to the following amounts under the Act:

(a) Compensation determined under Section 23(1) of the Act (comprising the market value of the land referred to as the first factor and any damages/expenses referred to as the second to sixth factors under the said sub-section).

(b) Solatium at 30% on the market value determined as the first factor under Section 23(1) of the Act.

(c) Additional amount at 12% per annum of the market value of the land referred to as the first factor under Section 23(1) of the Act, for the period specified in Section 23(2).

(d) Interest on the aggregate of (a), (b) and (c) above for the period between the date of taking possession to the date of payment/deposit at the rate of 9% per annum for the first year and 15% per annum for the remaining period.”

In General Manager, Oil and Natural Gas Corporation Limited’s case (2 supra) also, the Apex Court referring its earlier judgments expressed similar view and observed thus:

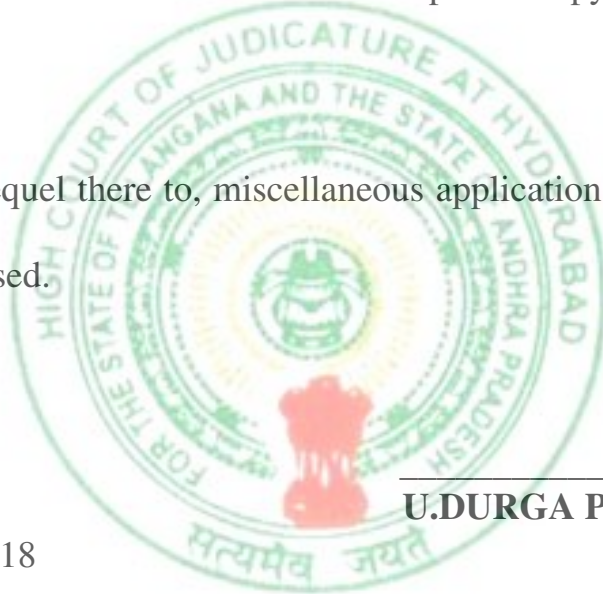
“Interest:

22. Subsequent to the decision of the High Court, a Constitution Bench of this Court in Sunder v. Union of India [(2001) 7 SCC 211] held that the “amount awarded” for the purpose of interest will include not only the market value, but also the additional amount under Section 23(1-A) and solatium under Section 23(2) of the Act. In Patel Joitaram Kalidas v. Spl. Land Acquisition Officer [(2007) 2 SCC 341] this Court held that the calculation of interest on the additional amount under Sections 23(1-A) and 23(2) is automatic and consequential, even in the absence of any specific appeal by the claimants in respect of non-grant of such interest.”

In view of the above precedential jurisprudence on the subject matter, the view expressed by the execution court and calculation made accordingly, cannot be countenanced.

6) Therefore, this C.R.P is allowed and the order dated 19.01.2018 in E.P.No.12 of 2009 passed by the Senior Civil Judge, Suryapet, is set aside and the execution court is directed to hear both parties and once again make the calculation in accordance with the decisions of the Apex Court mentioned in this order and pass an appropriate order on merits within two (2) weeks from the date of receipt of a copy of this order. No costs.

As a sequel there to, miscellaneous applications, pending if any, shall stand closed.



U.DURGA PRASAD RAO, J

Date: 17.09.2018

Note: Issue C.C today.

(b/o)
scs