

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

CR-3405-2016 (O&M)

Date of decision : 14.3.2018

Punjab State Power Corporation Ltd. Petitioner

Versus

Jasbir Singh and another Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr.R.L.Sharma, Advocate for the petitioner.

Mr. Naresh Kaushal, Advocate for respondents.

1. *Whether the Reporters of local newspaper 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 ?*

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 7.1.2016 (Annexure P-4) and the order dated 28.1.2016 (Annexure P-6) passed by learned Additional District Judge, Rupnagar (Executing Court) vide which in an Execution case No. 779 dated 19.8.2015, property of the petitioner-corporation has been attached and the plea of the judgment-debtor/petitioner that interest on the solatium and additional compensation is not payable, was negated.

The award dated 18.5.1999 passed by learned Additional District Judge, Ropar shows that while granting compensation, the statutory benefits under Sections 23(1A), 23 (2) and 28 of the Land Acquisition (Amendment) Act, 2014 were also allowed.

This Court vide its order dated 19.12.2007 while deciding the regular first appeal against the award dated 18.5.1999, enhanced the compensation and also allowed the other statutory benefits admissible to them in accordance with law. The said judgment has now become final.

The question posed before this Court is as to whether the interest is payable on solatium and additional compensation or not?

Learned counsel for the petitioner has maintained that no interest on solatium or additional compensation is payable. The provisions under Section 28 of the Land Acquisition Act, 1894 (for short 'the Act') reads as under: -

“28 Collector may be directed to pay interest on excess compensation. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of nine per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court:

Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry.”

It shows that Court can order the payment of interest on the enhanced compensation as determined by the Court on the rates mentioned in the said Section. In this way, while granting the benefit of Section 28 of

the Act, the Court specifically granted the benefit of Section 28 of the Act which means that interest as mentioned in the said Section was granted.

Learned counsel for the petitioner has produced the authority of the Hon'ble Supreme Court of India in *State of Punjab versus Amarjit Singh and another, 2011 AIR (SC) 982*, to press that such interest is not payable. A perusal of the said authority shows that in the said case, question posed before the Apex Court was as to whether the additional amount of 12% per annum can be claimed not only on the market value of the land but also on the solatium? The Apex Court after considering the law, accordingly ruled, that additional amount under Section 23 (1A) of the Act is not payable on solatium and it was declared that additional amount under Section 23 (1A) of the Act awardable on the market value determined under the first factor of Section 23 (1A) of the Act and cannot be calculated on the solatium payable under Section 23 (1A) of the Act.

Here, the controversy is entirely different. The question is regarding the payment of interest on solatium and additional amount.

The matter was recently considered by this Court in *EFA-12-2017* titled as *M/s Punjab Small Industries and Export Corporation Limited versus Shambhu Ram through LRs and others*, decided on 16.2.2018 wherein the authority of Apex Court in *Sunder versus Union of India, 2001(4) RCR (Civil) 727*, as well as various judgments of this Court were considered. In *Shambhu Ram's case (supra)*, the interest was specifically awarded in the award. Therefore, it was held that interest on solatium is to be paid in terms of the decree and not from the date of judgment of the Apex Court in *Sunder's case (supra)*.

It was observed by this court as under: -

This Court, while deciding RFA No. 2532 of 2009, titled as Arun Kumar and others Versus Land Acquisition Collector and others, disposed of said appeal, vide order dated 20.1.2010, stating that 'learned counsel for parties have agreed that the issue involved in present case is squarely covered by judgment of this Court in RFA No. 4060 of 2008, titled as Atma Singh and others Versus The Land Acquisition Collector, Industries Department, Punjab, Chandigarh, and others, decided on 5.5.2009, following an earlier judgment passed in RFA No. 1881 of 2000, titled as Labh Singh (dead) through his LRs Major Singh and another Versus The Collector, Land Acquisition and another, decided on 25.8.2008'.

Now, the perusal of judgment of this Court in Labh Singh's case (supra) shows that while referring the judgment of Apex Court in Sunder's case (supra), it was held that person entitled to compensation awarded is also entitled to get interest on the aggregate amount including solatium. The reference was accordingly answered. The plea of JDs before the trial Court is that interest on solatium is to be paid from the date of judgment of Apex Court in Sunder's case (supra). The judgment of Apex Court in Sunder's case (supra) has been referred to by learned Additional District Judge, Ludhiana, which deals with the matter when the interest on the solatium is not granted by the decree and is sought for the first time in the execution.

In view of the judgment in **Sunder's case (supra)** as well as other judgments referred to in **Shambhu Ram's case (supra)**, it has to be held that the parties are governed by the award passed by the Court. In case the interest on the solatium is specifically awarded in the award, the Executing Court cannot go beyond the decree and interest on solatium is to be awarded in terms of the award passed by the Court.

It being so, no ground is made out to interfere in the impugned order dated 7.1.2016 (Annexure P-4) and the order dated 28.1.2016

(Annexure P-6) passed by learned Additional District Judge, Rupnagar and the same is dismissed accordingly.

Since, the main petition has been dismissed, the miscellaneous application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

14.3.2018
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Whether speaking / reasoned	Yes
Whether Reportable:	No