

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

CR No.4413 of 2017
Date of decision : 27.02.2018

State of Punjab and others

...Petitioners

Versus

Sajna and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Charanpreet Singh, AAG, Punjab.

ANIL KSHETARPAL, J. (ORAL)

The State of Punjab is in the revision petition against the order passed by the learned Executing Court directing the petitioner-State to pay the interest from 14.05.1987 as ordered by the Court while passing the decree.

Learned counsel for the State of Punjab has placed on file copies of the judgment and decree passed by the trial Court dated 05.02.2002 and judgment and decree passed by the First Appellate Court dated 05.12.2002. The same are taken on record, subject to all just exceptions.

The possession of the land belonging to the Decree Holders was taken over by the Government without acquisition in accordance with law. The suit filed by the Decree Holders was decreed on 05.02.2002, while observing thus:-

“16. In view of my findings on foregoing issues, suit of the plaintiff for possession of the land fails and is dismissed but the suit of the plaintiff for alternative relief of the land fails and is dismissed but the suit of the plaintiff for alternative relief of compensation stands decreed with costs and the defendant department is directed to assess the compensation of the land of the plaintiff covered under the drain w.e.f. the date of possession taken by the defendant department in the year 1987 till the date of decree at the rate of 12% per annum. They are directed to assess and pay the compensation amount within 6 months from the date of decree, failure which plaintiff is entitled to claim the compensation amount with future interest at a rate of 6% per annum from the date of decree till its actual realization. Decree sheet be prepared accordingly and file be consigned to the record room, Ferozepur.”

An appeal preferred by the State of Punjab was dismissed vide judgment and decree dated 05.12.2002.

Thereafter, State of Punjab-petitioner initiated the acquisition proceedings and award was passed on 01.10.2007. However, while passing the award, the State of Punjab ignored the direction of the Civil Court vide order dated 05.02.2002. The interest was awarded only from 15.09.2005 and not from 14.05.1987. Learned Executing Court has directed the petitioner to comply with the direction given in the judgment and decree which has become final between the parties.

I have heard learned counsel for the petitioners at length and with his able assistance gone through the record of the case.

Learned counsel for the petitioners has vehemently argued that no interest can be paid to the owner before issuance of the Notification

under Section 4 of the Land Acquisition Act, 1894 was issued. He submits that the interest before 15.09.2005 has been declined as per the award passed by the Land Acquisition Collector.

This Court has considered the submissions, however, do not find any substance therein. The Executing Court is to execute the decree passed by the Court which has become final between the parties. State of Punjab was a party to the suit. The Court while passing a decree specifically directed that the interest shall be payable from 1987. The Executing Court cannot go behind the decree passed. Still further, it is not in dispute that the possession of the land belonging to the Decree Holder was unauthorisedly taken over in the year 1987. Such being the position, the learned Executing Court has not committed an error in directing the payment of the interest from 1987.

In view thereof, there is no ground to interfere with the order passed by the Executing Court.

Revision petition is dismissed.

27.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No