

C.M.No.14380-CII of 2018 in
RA-CR-142-CII-2018 in
CR-5974-2017 & other connected cases

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C.M.No.14380-CII of 2018 in RA-CR-142-CII-2018 in CR-5974-2017
C.M.No.14391-CII of 2018 in RA-CR-147-CII-2018 in CR-5977-2017
C.M.No.14401-CII of 2018 in RA-CR-149-CII-2018 in CR-5976-2017
C.M.No.14384-CII of 2018 in RA-CR-144-CII-2018 in CR-6060-2017
C.M.No.14410-CII of 2018 in RA-CR-154-CII-2018 in CR-9167-2017
C.M.No.14402-CII of 2018 in RA-CR-150-CII-2018 in CR-5980-2017
C.M.No.14390-CII of 2018 in RA-CR-146-CII-2018 in CR-8995-2017
C.M.No.14381-CII of 2018 in RA-CR-143-CII-2018 in CR-5973-2017
C.M.No.14406-CII of 2018 in RA-CR-153-CII-2018 in CR-8991-2017
C.M.No.14404-CII of 2018 in RA-CR-151-CII-2018 in CR-8993-2017
C.M.No.14405-CII of 2018 in RA-CR-152-CII-2018 in CR-8996-2017
C.M.No.14392-CII of 2018 in RA-CR-148-CII-2018 in CR-8358-2017
C.M.No.14386-CII of 2018 in RA-CR-145-CII-2018 in CR-5965-2017

Union of India vs. Kulwant Singh through LRs and others.

Present: Mr. Chetan Mittal, Senior Advocate, with
Mr. Varun Issar, Advocate (Central Government Counsel)
for the review-applicant-petitioner.

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C.M.No.14404-CII of 2018
C.M.No.14405-CII of 2018
C.M.No.14392-CII of 2018
C.M.No.14386-CII of 2018

Prayer in these applications is for condonation of delay of 100
days in filing the review applications.

For reasons mentioned in these applications, which is supported
by an affidavit, the delay of 100 days in filing the review applications are
condoned.

Applications are allowed.

MAIN

Review has been sought of order dated 08.03.2018, dismissing civil revisions filed by the Union of India.

This court has heard learned senior counsel appearing for the Union of India.

While deciding regular first appeal and enhancing the compensation payable, this court had directed that the land owners shall be entitled to all statutory benefits under Sections 23(1-A), 23(2) and Section 28 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) however, no interest on the solatium was granted. Hence, he submitted that the interest on solatium cannot be granted before the date of the judgment of the Constitution Bench in the case of **Sunder vs. Union of India, (2001) 7 SCC, 211.**

This court has considered the submission, however, find no substance therein.

The relevant extract of the judgment passed by this court while deciding the regular first appeal has already been extracted at pages 6 and 7 of the order under review dated 08.03.2018. This court has specifically mentioned that the land owners shall be entitled to all statutory benefits under Sections 23(1-A), 23(2) and 28 of the Act.

Section 23(1-A) is dealing with award of additional amount, whereas Section 23(2) deals with solatium. Section 28 enables the court to award interest if in the opinion of the Court, Collector did not award proper compensation. In the present case, learned trial court did order award of interest as provided under Section 28 of the Act.

Hon'ble constitution Bench in the case of Sunder (supra) had held that apart from the market value, the additional amount payable under Section 23(1-A) and solatium as provided under Section 23(2) would also be part of the compensation. The question which was answered by the Constitution Bench in the case of Sunder (supra) has been framed in paragraph 1 of the judgment, which is extracted as under:-

“The question referred to this Bench of five Judges is a simple one. Is the State liable to pay interest on the amount envisaged under Section 23(2) of the Land Acquisition Act, 1894 (for short “the Act”)? The sum contemplated in the aforesaid sub-section can conveniently be called “solatium” as that expression has been used plentifully in almost all land acquisition proceedings in India. The reference of the aforesaid question to this larger Bench was necessitated on account of a seeming conflict as between the decision of a three-Judge Bench of this court in Union of India v. Ram Mehar on the one hand and a few later decisions of coequal Benches of this Court on the other hand.”

Hon'ble Supreme Court while concluding had held that the compensation payable shall not only include market value determined under Section 23 but would also include additional amount payable under Section 23(1-A) and solatium under Section 23(2) of the Land Acquisition Act and the amount of interest is payable on the compensation payable and not the market value determined under Section 23 of the Act.

Subsequently, another Constitution Bench of the Hon'ble Supreme Court while adjudicating upon the rule of appropriation has also observed that the interest is payable on the amount of compensation.

Learned counsel for the review-petitioner while referring paragraph 54 of the judgment passed by the Hon'ble Supreme Court in *Gupreet Singh v. Union of India, (2006) 8 SCC, 457* has tried to submit that since in the present case, interest on solatium has not been specifically granted by the decree, therefore, it has to be paid only from the date the judgment in the case of Sunder (supra) was passed i.e. 19.09.2001.

This court has also considered this submission, however, find no substance in it.

On careful reading of the judgment passed while deciding regular first appeal, this court has specifically ordered payment of interest on the amount of compensation which includes solatium. Hence, there is no substance in the argument of learned senior counsel appearing for the Union of India that since interest on solatium has not been directed to be paid, therefore, interest is only payable from the date the judgment was passed in the case of Sunder (supra).

In view thereof, there is no good ground to review. Hence, applications are dismissed.

A photocopy of this order be placed on the files of other connected cases.

**July 30, 2018
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**(ANIL KSHETARPAL)
JUDGE**