

In the High Court for the States of Punjab and Haryana at Chandigarh

Date of Decision: May 02, 2019

1) *C.R. No. 148 of 2017 (O&M)*

Union of India and another ... *Petitioners*

Versus

Basu Dev Ganga Devi Aggarwal Sewa Trust & another

.... *Respondents*

2) *C.R. No. 149 of 2017 (O&M)*

Union of India and another *Petitioners*

Versus

Kanshi Ram (deceased) through LRs and another ... *Respondents*

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Arun Gosain, Sr. Panel Counsel,
for the petitioners.

Mr. Kuldeep Khandelwal, Advocate,
for respondent No.1.

Amit Rawal, J. (Oral)

CM-8746-CII-2017 in CR-148-2017

For the reasons stated in the application which is supported by an affidavit, same is allowed. Order dated 17.04.2017 is recalled.

CM-8708-CII-2017 in CR-149-2017

For the reasons stated in the application which is supported by an affidavit, same is allowed. Order dated 17.04.2017 is recalled.

CM-26719-CII-2018 in CR-149-2017

For the reasons stated in the application which is supported by an affidavit, same is allowed. Annexure R-1 is taken on record subject to all

just exceptions.

CR Nos. 148 & 149 of 2017 (O&M)

This order of mine shall dispose of two Civil Revisions bearing Nos. 148 and 149 of 2017.

Both the afore-mentioned revision petitions are directed against the impugned order dated 15.11.2016 (Annexure P/1) of the Executing Court calling upon the Union of India to pay interest on solatium.

Mr. Arun Gosain, learned counsel, appearing on behalf of the petitioners, submitted that earlier the matter was adjourned on account of the fact that interpretation ratio which culled out in ***Gurpreet Singh vs. Union of India, 2008(2) R.C.R. (Civil) 207*** and ***Sunder vs. Union of India, 2001(4) R.C.R. (Civil) 727*** was referred to the larger Bench which came to be decided on 14.11.2018, but in the present case, land owners sought interest, whereas the cut off date for payment of interest in this case is 19.09.2001 i.e. from the date of judgment.

Per contra, learned counsel for the land owner in this case rebuts the arguments of the learned counsel for the petitioners and submits that judgments passed by the reference Court or the higher Court are silent with regard to the interest on solatium on cut of date i.e. 19.09.2001, but in the present case reference/appellate Courts vide award dated 24.04.1989 clarified the payment of interest, therefore, cut of date would not be 19.09.2001 and submits that para no.54, the Hon'ble Supreme Court in the case of ***Gupreet Singh (supra)*** clarified the payment of the interest in case order of reference / appellate Court is silent.

I have heard learned counsel for the parties and appraised the paper book.

There is no denial of the fact that the award is of the year 1989 which has been placed on record through CM-26719-CII-2018 as Annexure R-1. The relevant clause reads as under:-

“In the light of my above discussion and findings, the references/petitions are partly succeed and the market value of the acquired land under Award No.4, which falls under Block `A' having proximity to the road is given at the rate of Rs. Eighty thousands per acre and that the market value of the land falling under block `B' is given at the rate of Rs. Forty thousands per acre. The land owners / claimants shall be entitled to solatium at the rate of 30% at the market value and they shall also be entitled to the additional amount at the rate of 12% per annum as provided under Section 23(1)(a) of the Act along with the interest at the rate of 9% per annum from the date of dispossession and further at the rate of 15% per annum for the period subsequent thereto, till the total balance payment is deposited for payment to the claimants/petitioners. The petitioners are entitled to the cost of the petitioner. I also qualify at Rs. 200/- as counsel's fee in each petition....”

The afore-mentioned award discloses the landowners entitled to interest @ 9% per annum from the date of dispossession and further @ 15% per annum for the period subsequent thereto, till the total balance payment is deposited for payment to the claimants and also entitled the benefits under the provisions of Section 23(1)(a) of the Act i.e. 30% at the market value. The executing Court in the present case rejected the objections of the Union of India holding the land owners entitled to statutory benefits being beyond the order of the reference/appellate Court.

Mr. K.K. Khandewal, learned counsel, further refuted the

arguments by referring the decision of this Court in **RFA No. 1801 of 1989** titled as “Basu Dev Aggarwal and others vs. State of Haryana and another, decided on 19.04.1996, whereby while allowing the appeal, categorisation of land into blocks held to be abolished and claimants were held entitled to the grant of compensation of Rs. 1,05,000/- per acre along with statutory benefits. The operative part of the order reads as under:-

“Heard learned counsel for the parties, it is conceded by learned counsel for the parties that the case is covered by the judgment of this Court in Chander Parkash vs. The State of Haryana and others, 1991 (1) PLR 468.

In view of the statements of learned counsel for the parties, the claimants' appeal is allowed. The categorisation of land into blocks is abolished. The claimants are held entitled to the grant of compensation at the uniform rate of Rs.1,05,000/- per acre. They are further held entitled to the grant of statutory benefits of the amended provisions of the Land Acquisition Act i.e. Sections 23(1-A), 23(2) and 28.”

At this stage, learned counsel for the Union of India submitted that *de hor* of the fact that order of the reference / appellate Court has merged in the order of this Court in the RFA, as extracted above, yet the land owners are not entitled to the benefits under Section 23(1)(a) and 28 of the Land Acquisition Act.

However, I am of the view that matter is required to be revisited by Executing Court by keeping open the issue qua entitlement of interest as urged by learned counsels before the amount of compensation is disbursed or paid to the land owners. It is clarified that both the parties shall submit the calculations strictly as per the order of the reference/appellate

Court and as well as law of land in view of the judgments prevailing as on

today.

Both the afore-mentioned revision petitions i.e. C.R. No. 148 and 149 of 2017 stand disposed of accordingly.

May 02, 2019
vkd

(Amit Rawal)
Judge

Whether reasoned / speaking : Yes

Whether reportable : No