

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 111 (27 cases)

CR-4930-2019

Date of decision : 11.09.2019

Bhim Singh (deceased)
through his LRs and others

..... Petitioners

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Rajeev Sharma (Raju), Advocate
 Mr. Munish Kumar Garg, Advocate,
 Mr. Navneet Singh, Advocate,
 Mr. Pawan Singh, Advocate,
 Mr. S. P. Khatri, Advocate,
 Mr. Himanshu Garg, Advocate, for
 Mr. Ankit Goel, Advocate, for the petitioner(s).

Mr. Indresh Goel, Addl. A. G., Haryana.

Mr. Baldev Raj Mahajan, Senior Advocate, with
Mr. Pritam Singh Saini, Advocate,
for HSIIDC, HSAMB and MC Sonapat.

Mr. S. K. Mahajan, Advocate, for the HSIIDC.

DEEPAK SIBAL, J. (ORAL)

The present order shall dispose of a bunch of 27 petitions being CR-4930-2019, CR-7327-2015, CR-7358-2015, CR-7364-2015, CR-6712-2015, CR-6737-2015, CR-7101-2015, CR-7106-2015, CR-7645-2015, CR-8349-2015, CR-8350-2015, CR-8351-2015, CR-8367-2015, CR-4688-2015, CR-8261-2015, CR-8272-2015, CR-8305-2015, CR-8317-2015, CR-8327-2015, CR-130-2016, CR-50-2019, CR-4237-2015, CR-4307-2015, CR-3792-2016, CR-4992-2016, CR-3150-2019 and CR-3441-2019 as common questions of law and facts are involved therein. For the sake of convenience, facts are being extracted from CR-4930-2019.

The present petition is directed against the order dated 18.09.2017, passed by the Additional District Judge, Sonapat (for short, the Executing Court), through which the Executing Court has held the petitioners entitled to interest on

solatium but only w.e.f. 19.09.2001 and not prior thereto.

Learned counsel for the petitioners submitted that as per the law laid down by the Hon'ble Apex Court in "*Sunder vs Union of India*" (2001) 7 SCC 211 solatium has been considered to be an integral and statutory part of compensation awarded to the land owners and therefore interest under Section 28 of the Land Acquisition Act, 1894 is required to be granted on solatium without limiting the same from 19.09.2001 onwards. Reliance is further placed on a recent judgment by the Hon'ble Apex Court in "*M/s Periyar and Pareekanni Rubbers Ltd. vs The State of Kerala*" in Civil Appeal No(s). 7034-7037-2015, decided on 14.11.2018 wherein for the reason that the Reference Court had awarded interest on solatium, the Apex Court set aside the order of the High Court limiting the grant of solatium w.e.f. 19.09.2001.

Mr. B. R. Mahajan, learned Senior Advocate, who appears on behalf of the respondents submitted that this Court while deciding the regular first appeals filed by the petitioners against the orders of the Reference Court did not specifically grant interest on solatium and therefore, the Executing Court in terms of the judgment of the Hon'ble Apex Court in "*Gurpreet Singh vs Union of India*" (2006) 8 SCC 457 has rightly limited the grant of interest on solatium w.e.f. 19.09.2001.

A perusal of the order impugned in the present petition reveals that the same has been passed without any reference to the claim made by the petitioners before the Reference Court or in the first appeals filed by them before this Court. The relief granted by the Reference Court as also this Court in the petitioners' first appeals has also not been extracted or considered. No meaningful discussion with regard to the law laid down by the Hon'ble Apex Court in *Gurpreet Singh's* case (supra), "*Chimanlal Kuberdas Modi (dead) by LRs vs Gujarat Industrial Development Corporation and others*" (2010) 10

SCC 635 and *Sunder's* case (supra) is also found. Since the impugned order is dated 18.09.2017, the same obviously has been passed without reference to the recent pronouncement made by the Hon'ble Apex Court on 14.11.2018 in *M/s Periyar's* case (supra).

In view of the above as also for the reason that in a bunch of 36 similar petitions (the main case being CR-621-2016 “*Rajesh Kumar vs State of Haryana*”) a Coordinate Bench of this Court, through a recent judgment dated 08.05.2019, has set aside identical orders as have been impugned in the present petitions and has remitted the matters back to the Executing Court for a fresh decision, the impugned orders in all the afore-referred petitions are set aside and the matters are remanded to the Executing Court with a direction to the Executing Court to pass a fresh reasoned order in terms of the observations made hereinabove in accordance with law.

Since in these matters the land of the petitioners was acquired way back in the year 1994, the Executing Court is directed to finally adjudicate upon the matters within three months from the date of receipt of a copy of this order.

The parties are directed to appear before the Executing Court on 19.09.2019.

11.09.2019
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No