

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: 8th March, 2019.**

+ **LA.APP. 333/2014**

SIRI CHAND **Appellant**

Through: Mr. H.M. Singh, Adv.

Versus

UNION OF INDIA & ANR. **Respondents**

Through: Mr. Sanjay Kumar Pathak, Mrs. K.K. Kiran Pathak, Mr. Sunil Kumar Jha & Mr. M.S. Akhtar, Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. On 17th July, 2018, after hearing the counsels the following order was passed:

“1. This proceeding, though was filed under Article 227 of the Constitution of India, was vide order dated 14th July, 2014 converted into this appeal.

2. The challenge in this proceeding is to the order dated 7th October, 2011 of dismissal of Execution No.176/2011 preferred by the petitioner / appellant.

3. The petitioner / appellant, in the Execution which has been dismissed vide the impugned order, claimed interest on solatium and additional amount in terms of Section 23 (1A) of the Land Acquisition Act, 1894.

4. The counsels have been heard.

5. What emerges is, (i) that Section 4 Notification for acquisition of the land of the petitioner / appellant was issued on 27th January, 1984; (ii) on 16th July, 1986, the Award was published awarding compensation @ Rs.13000/- per *bigha*; (iii) on reference under Section 18 having been made by the petitioner / appellant, the Reference Court, vide judgment dated 1st May, 1995

enhanced the compensation to Rs.36,400/- per *bigha*; (iv) RFA No.974/1995 was preferred by the petitioner / appellant to this Court seeking further enhancement and vide judgment dated 2nd November, 1998 therein, the compensation was enhanced to Rs.47,224/- per *bigha*; (v) the petitioner / appellant applied for execution on 18th September, 2001 and which execution was closed on 18th December, 2009 on the compensation with other dues being released in favour of the petitioner / appellant; (vi) the petitioner / appellant filed a second round of execution proceedings from which this petition / appeal arises, claiming interest on solatium and additional amount under Section 23(1A) of the Act; (vii) the impugned order holds the petitioner / appellant to be not entitled to the same *inter alia* reasoning that as per para 54 of ***Gurpreet Singh Vs. Union of India*** (2006) 8 SCC 457, interest on solatium was to be awarded only in “pending executions” and since the Execution earlier filed by the petitioner / appellant stood closed on 18th December, 2009, the same could not be awarded; reliance in this regard was also placed on ***Land Acquisition Officer & Assistant Commissioner Vs. Shivappa Mallappa Jigalpur*** (2010) 12 SCC 387; (viii) Section 23(1A) was added to the Act by amendment thereof with effect from 24th September, 1984; (ix) the element of interest on solatium came into force vide ***Sunder Vs. Union of India*** (2001) 7 SCC 211 pronounced on 19th September, 2001; (x) neither the judgment of the Reference Court nor the judgment in appeal provide for any such payment as now claimed by the petitioner / appellant; without the same, payment in execution cannot be ordered(xi) however ***Gurpreet Singh*** supra allowed

such claims to be made in cases where interest on solatium had not been declined in the judgment and where the Execution was pending but clarifying that the interest were to be awarded w.e.f. 19th September, 2001 only and not for any period prior thereto; and, (xii) as far as the additional amount under Section 23(1A) is concerned, a direction therefor was made in the judgment dated 2nd November, 1998 in RFA No.974/1995.

6. The counsel for the petitioner / appellant however has no explanation as to why additional amount under Section 23 (1A) was not sought to be

recovered in execution filed on 18th September, 2001 and which was closed only on 18th December, 2009.

7. As far as interest on solatium is concerned, the counsel for the petitioner / appellant states that though the petitioner / appellant, w.e.f. 19th September, 2001 when *Sunder* supra was pronounced, was entitled thereto but it was not paid to him in execution owing to appeal having been preferred by the Union of India against the judgment dated 2nd November, 1998 in RFA No.974/1995. It is argued that it was so stated by the Union of India in the reply filed to execution earlier filed by the petitioner / appellant.

8. I may notice that para 4 of the impugned order records that the petitioner / appellant had sought several opportunities before the Executing Court to establish the said fact but did not.

9. The counsel for the respondent states that before this Court also, several opportunities were sought.

10. The counsel for the petitioner / appellant today also, after the hearing has reached this stage, seeks adjournment to obtain certified copies of the record of the earlier Execution.

11. Though there is no ground for adjourning the proceedings today but only for the reason of, compensation for acquired land being involved, it is deemed appropriate to grant one last opportunity to the petitioner / appellant but clarifying that if on the next date of hearing the certified copies of the requisite records are not produced, this Court would have no option but to proceed with the matter.

12. Before parting, I may record that the petitioner / appellant had correctly invoked Article 227 of the Constitution of India and no provision whereunder appeal would be against an order as the impugned order is, has been found.

13. List on 5th September, 2018.”

2. Thereafter, the proceedings were adjourned from time to time.

3. The appellant, under list of documents dated 30th August, 2018 has filed (i) certified copy of decree dated 13th July, 2001 of the Court of Additional District Judge (ADJ), Delhi in LAC No.959/1993; (ii) certified copy of reply filed in LAC No.959/1993 aforesaid; (iii) certified copy of application for payment of interest on solatium and additional amount filed in LAC No.959/1993; (iv) certified copy of statement of account for interest on solatium and additional amount filed in LAC No.959/1993; and, (v) certified copy of order dated 18th December, 2009 in Ex.No.251/09/01 of the Court of ADJ-01, Dwarka Court.

4. Though the hearing on 17th July, 2018 was adjourned to enable the appellant to file additional documents and which have been filed as aforesaid, but in the hearing today the counsel for the appellant has not referred to any of the said documents.

5. The counsel for the respondent no.1 Union of India (UOI) argues that the appellant, before this Court also has not been able to establish what is recorded in paras no.7 and 8 of the order dated 17th July, 2018 i.e. that any appeal was preferred by respondent no.1 UOI against the judgment dated 2nd November, 1998 in RFA No.974/1995.

6. I have however enquired from the counsel for the respondent no.1 UOI that, since what is claimed by the appellant, in **Sunder** supra been held to be entitlement of the person whose land is acquired and is by way of compensation for compulsory acquisition of land and since the case of the appellant is otherwise covered by **Sunder** supra, why should this Court not award interest on solatium and additional amount under Section 23(1A) of the Land Acquisition Act, 1894, to the appellant.

7. The counsel for the respondent no.1 UOI draws attention to para no.54 of *Gurpreet Singh* supra and contends that the appellant thereunder is not entitled to the amounts claimed.

8. It is deemed appropriate to set out herein below the said paragraph 54 in entirety:

“54. One other question also was sought to be raised and answered by this Bench though not referred to it. Considering that the question arises in various cases pending in Courts all over the country, we permitted counsel to address us on that question. That question is whether in the light of the decision in *Sunder*, the awardee/decreed-holder would be entitled to claim interest on solatium in execution though it is not specifically granted by the decree. It is well settled that an execution court cannot go behind the decree. If, therefore, the claim for interest on solatium had been made and the same has been negatived either expressly or by necessary implication by the judgment or decree of the Reference Court or of the appellate court, the execution court will have necessarily to reject the claim for interest on solatium based on *Sunder* on the ground that the execution court cannot go behind the decree. But if the award of the Reference Court or that of the appellate court does not specifically refer to the question of interest on solatium or in cases where claim had not been made and rejected either expressly or impliedly by the Reference Court or the appellate court, and merely interest on compensation is awarded, then it would be open to the execution court to apply the ratio of *Sunder* and say that the compensation awarded includes solatium and in such an event interest on the amount could be directed to be deposited in execution. Otherwise, not. We also clarify that such interest on solatium can be claimed only in pending executions and not in closed executions and the execution court will be entitled to permit its recovery from the date of the judgment in *Sunder* (19-9-2001) and not for any prior period. We also clarify that this will not entail any re-appropriation or fresh appropriation by the decree-holder. This we have indicated by way of clarification also in exercise of our power

under Articles 141 and 142 of the Constitution of India with a view to avoid multiplicity of litigation on this question.”

(emphasis added)

9. It is the contention of the counsel for the respondent no.1 UOI, that as per the aforesaid dicta of the Supreme Court, the interest on solatium and additional amount under Section 23(1A) of the Act have been held to be payable “only in pending executions and not in closed executions”. It is contended that the execution application filed by the appellant was closed on 18th December, 2009 and it is only thereafter that the second execution claiming the said amounts was filed.

10. Per contra, the counsel for the appellant states that ***Gurpreet Singh*** supra was pronounced on 19th October, 2006 and on which date the first execution application of the appellant was very much pending and the appellant was thus entitled to interest on solatium and additional amount in terms of ***Gurpreet Singh*** supra and was wrongly not paid the same compelling the appellant to file a second execution application.

11. It is also the contention of the counsel for respondent No.1 UOI that even if the executing court, in denying the said amounts to the appellant, had committed an error, the remedy of the appellant was to prefer a remedy against the said order of the executing court and the appellant having not availed of the said remedy, the order in execution has attained finality and the second execution application filed by the appellant would not qualify as pending execution within the meaning of paragraph no.54 aforesaid of the ***Gurpreet Singh*** supra. It is further contended that the appellant made a false statement in second execution application that respondent no.1 UOI had

preferred an appeal against the judgment in RFA No.974/1995 preferred by the appellant for enhancement of compensation before this Court and which the appellant has failed to establish till date.

12. As far as the last of the aforesaid contentions is concerned, in my view the principles as applicable to discretionary remedies, of a petitioner/plaintiff/applicant being not entitled to claim a discretionary remedy by indulging in such falsehood, would not apply to execution proceedings. A proceeding for execution is merely for implementation of the judgments / orders of the Court and right to what is sought in execution accrues from the judgment and order and a judgment and order once passed cannot be set aside on the ground of falsehood practiced in application filed for execution of the said judgment and order. Only if in the matter of obtaining a favourable judgment and order, any fraud or other mischief has been played, can the judgment and / or order be set aside and which is not the case here.

13. Paragraph 54 aforesaid (set out hereinabove) of ***Gurpreet Singh*** which refers to “pending executions” has to be understood as executions which were alive on the date of pronouncement of ***Gurpreet Singh*** supra i.e. on 19th October, 2006. It is not in dispute that the first execution application preferred by the appellant was alive on that date and was disposed of / closed only on 18th December, 2009. The execution application of the appellant was thus a “pending execution” within the meaning of ***Gurpreet Singh*** supra and the appellant, in terms thereof entitled to the amounts claimed. However the said amounts were not paid to the appellant, because it seems that neither the appellant sought the same nor did the Executing Court direct payment

thereof to the appellant. However it is not as if the Executing Court denied the same to the appellant while closing the execution application.

14. Thus the only question for adjudication is, the entitlement of the appellant to file a second execution application, instead of seeking the remedy of preferring an appeal against the order disposing first execution without directing recovery of amounts which had become due to the appellant under *Gurpreet Singh* supra.

15. Again, considering the nature of recovery i.e. compensation for compulsory appropriation of land of the appellant, I am of the view that the said technicality should not be allowed to come in the way of entitlement of the appellant. Merit is found in the contention of the counsel for the appellant that it is the duty of the Land Acquisition Collector (LAC) and / or the respondent no.1 UOI, to pay to the citizens whose land has been compulsorily acquired, just and due compensation therefor and the LAC / UOI cannot hide behind the veil of technicalities to deny such just and due compensation.

16. Recently, while dealing with certain provisions of the Land Acquisition Act, in *Narendra Vs. State of Uttar Pradesh* (2017) 9 SCC 426 it was held (i) that the purpose and objective behind Section 28-A thereof is salutary in nature and keeps in mind that those landowners who are agriculturist in most of the cases and whose land is acquired for public purpose should get fair compensation; (ii) once a particular rate of compensation is judicially determined, which becomes a fair compensation, benefit thereof is to be given even to those who could not approach the Court; it is with this aim, the said provision is incorporated by the

Legislature; (iii) once the said purpose is kept in mind, the mere fact that the compensation which was claimed by some of the villagers was at lesser rate than the compensation which is ultimately determined to be fair compensation, should not be a ground to deny such persons appropriate and fair compensation on the ground that they claimed compensation at a lesser rate; (iv) in such cases, strict rule of pleadings are not to be made applicable and rendering substantial justice to the parties has to be the paramount consideration; (v) it is to be kept in mind that in the matter of compulsory acquisition of lands by the Government, the villagers whose land gets acquired are not willing parties; it was not their voluntary act to sell off their land; they were compelled to give the land to the State for public purpose; for this purpose, the consideration which is to be paid to them is also not of their choice; on the contrary, the rate at which the compensation is to be paid to the persons divested of their land is determined by the Land Acquisition Collector, subject to judicial scrutiny; (vi) that the Land Acquisition Act itself provides for fair compensation; once such fair compensation is determined judicially, all landowners whose land is taken away by the same Notification should become the beneficiary thereof; (vii) not only it is an aspect of good governance, failing to do so, would also amount to discrimination by giving different treatment to the persons though identically situated; (viii) on technical grounds, this fair treatment cannot be denied to them; and, (ix) the judicial scrutiny of fair compensation, though adversarial, has elements of social context, owing to being in the context of administering justice to the marginalised section of the society. Again, in *Mohammad Yusuf Vs. State of Haryana* (2018) 16 SCC 105, it has been held (a) that the right to property is a constitutional right (earlier it was a

fundamental right until 1978) as provided under Article 300-A of the Constitution of India; (b) that the term ‘compensation’ has been interpreted to be “a just equivalent of what the owner has been deprived of”; (c) hence, the acquisition must pass the test of compensation being reasonable, just and fair; and, (d) that the term ‘justice’ as enshrined in the Preamble to the Constitution of India includes justice in economic terms and the term “economic justice” in itself mandatorily requires compensation to be adequate.

17. Applying the aforesaid logic, once in ***Gurpreet Singh*** supra it was held that interest on solatium and additional amount under Section 23-A of the Act was payable in pending executions, the effect thereof was, to read the judgement and decree of which execution was sought by the appellant, as directing payment of the said amounts also to the appellant. In my opinion, once it was so, it matters not whether in the execution application filed by the appellant which was pending on the date of pronouncement of ***Gurpreet Singh***, the said amount was paid or not. The right thereto had accrued to the appellant.

18. The next question which arises is, that if in execution of a judgment and decree, a lesser amount is claimed and recovered, whether it bars the decree holder from filing a second execution for the balance amount due under the judgment and decree.

19. In this context, I may notice that it is not the case of the respondent No.1 UOI that in the first execution application filed by the appellant, the appellant had claimed the amounts which are now being claimed or that the entitlement of the appellant to the said claim was considered, while hearing

the first execution, and was rejected. It is a case of perhaps ignorance on the part of the appellant. The appellant, till the closure on 18th December, 2009 of its first execution application, does not appear to have been aware of its rights for interest on solatium and additional amount under Section 23-A of the Act in terms of **Gurpreet Singh** supra. The respondent No.1 UOI on the contrary acted mechanically, verifying only the entitlement of the appellant to that what was claimed by the appellant in the first execution application and not on its own attempting to find out whether the appellant, whose land had been compulsorily acquired, had been paid what was due to him, including in terms of **Gurpreet Singh** supra.

20. The legal question which arises in the aforesaid facts is, whether the claim of the appellant for such amounts which remained to be claimed in first execution, is barred by principles of *res judicata* or constructive *res judicata*.

21. The Division Bench of the High Court of Madras, in **Somasundaram Pillai Vs. Chokkalinga Pillai** 1917 SCC OnLine Mad 93 was concerned with a case, first of an application for restitution of a sum of money recovered in execution in consequence of the decree having been reversed on appeal and thereafter an application for interest on the money for the period during which the counter-petitioner had the use of it. It was held that the principle of constructive *res judicata* and/or Order II Rule 2 of the CPC is not to be applied in execution proceedings as a matter of course, and unless the decision of the question subsequently sought to be agitated was either expressly given or must be deemed to have been necessarily implied in the previous decision, the principle of *res judicata* should not be applied to

execution proceedings. Similarly, in ***Ram Chand Vs. Co-operative Society Kharar*** AIR 1937 Lah 265, it was held that before the doctrine of *res judicata* is invoked in execution proceedings, there must be some finding, either express or by necessary implication, deciding the question one way or the other. Finding in the facts of that case that in the objections earlier filed to attachment of immovable property, there was no objection to attachment on the ground that the property could not be attached under Section 60 of the CPC, it was held that the second objection petition on the said ground was not barred by *res judicata*. Similarly in ***Amin Chand Vs. Firm Chuni Lal-Tuhi Ram*** AIR 1937 Lah. 733 (DB) also it was held that, inspite of use of the word ‘satisfied’ by the Executing Court, it could never be said that the execution proceedings had terminated for good or that the decree had been fully satisfied and that the Executing Court had not become *functus officio* and a fresh application for realisation of the balance due to the decree holder was maintainable. The Division Bench of the High Court of Bombay also in ***Mittasaheb HIRAMA Kakkalmali Vs. Gurunath Hanmant Kulkarni*** AIR 1943 Bom 252 held that rule of constructive *res judicata* must be applied with great caution against a party to the execution proceedings who had no direct notice of the point and therefore no opportunity to raise it. The Division Bench of the High Court of Allahabad also in ***Lachchmi Narain Vs. Munni Lal*** 1963 SCC OnLine All 60 held that dismissal of the first objection would not operate as *res judicata*, for it was never heard and decided.

22. I would however be failing in my duty, if do not mention ***Mohanlal Goenka Vs. Benoy Krishna Mukherjee*** AIR 1953 SC 65, a judgment of four Hon’ble Judges and having two opinions, one of Ghulam Hasan, J. and the

concurring view of Sudhi Ranjan Das, J. Ghulam Hasan, J. in his opinion held that it is no longer open to doubt that the principle of constructive *res judicata* is applicable to execution proceedings. The Court however in that case was concerned with the question of maintainability of a second objection to the jurisdiction of the Court to execute the decree, after the earlier objection to the same effect, albeit on a different ground, had been dismissed. The argument, that the ground of objection to jurisdiction of the Court to execute the decree taken in the second objection was not considered while dismissing the first objection, was rejected. The Court expressed anguish at the difficulties faced in execution of the decree. However, Sudhi Ranjan Das, J., though also allowed the appeal, allowed it on another ground. The remaining two Judges merely observed that the decision can be rested on either of the grounds given by Sudhi Ranjan Das, J. and Ghulam Hasan, J. respectively. Following the said judgment, in ***Kamlabai Vs. Mangilal Dulichand Mantri*** (1987) 4 SCC 585 it was held that an objection to execution not taken earlier could not be taken, after the dismissal of objections earlier preferred. The Division Bench of this Court also in ***Sita Ram Vs. Devi Dayal*** (1968) 4 DLT 266, after observing that the view of Lahore and Punjab High Courts on the applicability of the principle of *res judicata* to execution proceedings is not settled, faced with a second round of objections to execution, held the same to be barred by *res judicata*. It was again observed that “the real difficulties of a decree holder start when he embarks on what is described as the thorny path of execution”. Mention may lastly be made of ***Chanceteam Investments Ltd. Vs. R.D. Ramanath Company*** 2004 (74) DRJ 72 holding that a second objection to execution will be barred by *res judicata*.

23. However, in my humble opinion, what has been held in the aforesaid judgments was with reference to the facts thereof and would not come in the way of the claim of the appellant. The principle of *res judicata* is codified in Section 11 of the CPC and bars the Court from “try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same partiesin a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court”. Explanation IV thereof provides that “any matter which ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit”. The said Explanation codifies the principle of *constructive res judicata*. Explanation VII provides that the provisions of Section 11 of the CPC shall apply to a proceeding for the execution of a decree and references therein to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree. Section 11 of the CPC read with Explanation VII thereto will read “No Court shall try a proceeding for the execution of a decree or issue arising in such proceeding in which the matter directly and substantially in issue has been directly and substantially in issue in a former proceeding for execution between the same parties”. Reading Section 11 so, what is barred thereby is trying of any claim or issue arising in trial of such claim. However, in a proceeding for execution, as far as the decree holder is concerned, the Court is not trying any issue and is merely implementing what has already been tried and adjudicated as due from one party to a suit to the other. A decree

holder has to only prove, whether under the decree what is claimed in execution is due or not and the role of the Executing Court is only to find, whether what is claimed in execution has been allowed in the decree. If it has been so allowed, it is not for the Executing Court to go behind the decree and determine, whether what has been allowed has been rightly and correctly allowed or not. Thus, the decree holder in an execution does not seek determination of any claim or issue and the role of the Executing Court as far as the decree holder is concerned, is to only verify that what is claimed is due. It is the judgment debtor or others objecting to the decree who raise issues in execution and which issues and contentions are decided by the Executing Court and to which the principle of *res judicata* would apply.

24. Else, an execution proceeding is inherently different from a suit. While successive suits against the same defendant and for the same reliefs including was for reliefs which could have been claimed against the defendant on the date of institution of the suit cannot be filed and dismissal of a suit in default bars the institution of a fresh suit, it is not so vis-à-vis execution applications. An execution application, if dismissed, the decree holder need not apply for restoration and can always file a second execution application. As far back as in ***Thakur Prasad Vs. Fakirullah*** (1895) 17 All 106 it was held by the Privy Council that both CPC and provisions of the Limitation Act contemplate successive applications for execution. Similarly in ***Shivashankar Prasad Shah Vs. Baikunth Nath Singh*** (1969) 1 SCC 718 also it was held that an execution petition which has been dismissed for default of the decree holder, even if after, the judgment debtor had resisted the execution on one or more grounds, does not bar further execution of the decree in pursuance of fresh execution petitions filed in accordance with law.

Similarly, while death of a party to a suit requires legal heirs to be substituted within the prescribed time, there is no such requirement in execution proceedings and execution can be sought directly against the heirs of a judgment debtor.

25. Thus, merely because it has been held in the judgments aforesaid, in the facts thereof, that the principles of *res judicata* apply to execution proceedings would not, in my humble opinion, bind me to hold that a second execution application for the relief which though has been granted but not claimed in the earlier execution application nor given up, and grant whereof was not for consideration in the earlier execution application, cannot be sought by bringing a second application for execution.

26. I am in this context reminded of ***Galada Power and Telecommunication Limited Vs. United India Insurance Company Limited*** (2016) 14 SCC 16 holding that for the principles of estoppel to apply, the person against whom the estoppel is sought to be raised must be shown to have intentionally given up a claim and in knowledge thereof. Though ignorance of law is not a ground available in the Courts but, in my view, ignorance of a judgment of the Supreme Court to which a person is not a party, though granting a relief to that person, would not stand on the same pedestal. As aforesaid, the appellant herein appears to have been ignorant, while pursuing his first execution application, of benefit conferred on him under ***Gurpreet Singh*** supra.

27. Though I find a Division Bench of the High Court of Calcutta in ***Shyama Charan De Tahbildar Vs. Protap Chandra Das*** 1930 SCC OnLine Cal 48 to have observed that, “it is well settled that a portion of an entire

decree for which execution was not once claimed cannot form part of a subsequent claim in execution” but without stating anything more or giving any reason. I respectfully differ therefrom.

28. The counsel for the respondent No.1 UOI save for the aforesaid objection, has not raised any objection to the entitlement of the appellant to the amounts claimed.

29. The principle of denial by inference cannot be attracted to compensation for compulsory acquisition of land particularly when there is admittedly nothing in the judgment in the first execution application to show that the court applied its mind to the claim as has been made in the second execution application.

30. There is another aspect of the matter. The first execution application was filed prior to the pronouncement of ***Gurpreet Singh*** supra and on which date the right of the appellant to recover interest on solatium and additional amount under Section 23-A had not accrued. The said right accrued on 19th October, 2006, when ***Gurpreet Singh*** supra was pronounced and in terms whereof the judgment and decree in favour of the appellant which was in execution was to be read as also awarding to the appellant interest on solatium and additional amount. Since the execution of the appellant was pending on that date, the said amount became due to the appellant. The appellant could have claimed execution in recovery thereof only thereafter and on this ground also, a subsequent application for execution for recovery thereof would be maintainable.

31. I find the High Court of Karnataka in ***The Special Land Acquisition Officer, BDA Vs. A.L. Nanjareddy*** MANU/KA/0503/2008 having taken the

same view as taken by me hereinabove and further find SLP(C) No.10294-10298/2009 preferred thereagainst to have been dismissed on 25th August, 2011.

32. It is otherwise not in dispute that the interest on solatium and additional amount due to the appellant would be from 19th September, 2001 in terms of ***Gurpreet Singh*** supra and till the payment of the said solatium and additional amount. If the solatium / additional amount has been paid in instalments, then the interest on the amount paid shall run only till the date of payment of the said amount and will thereafter continue to run only on the unpaid amount.

33. The appeal is thus allowed. The appellant is held entitled to interest, in accordance with law, on solatium and additional amount under Section 23(1A) of the Act, with effect from 19th September, 2001 and till the date of payment of solatium and additional amount and with the further clarification that if solatium and additional amount are paid in instalments, interest on the amount paid shall cease to run and shall thereafter run only on the remaining unpaid amount.

RAJIV SAHAI ENDLAW, J.

MARCH 08, 2019

‘gsr/bs’

(corrected & released on 20th March, 2019)