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

CWP-22966-2017

Date of decision: 23.01.2020

OMKAR (SINCE DECEASED) THROUGH HIS LR

....PETITIONERS

VERSUS

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Sumit Jain, Advocate
for the petitioners.

Ms. Vibha Tewari, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

Costs of Rs. 5,000/- each in favour of two petitioners by way of demand drafts have been supplied to counsel of the petitioners in Court today. Photocopies of the same are taken on record.

In the present petition filed under Article 226/227 of the Constitution of India, the petitioners seek directions to respondents pay interest at the rate of 9% per annum on account of late payment of compensation awarded to the petitioner. The period is from the date of award i.e. 01.12.2016 (Annexure P-2) till the compensation was actually paid i.e. 17.04.2017 to the petitioners in terms of Section 80 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-settlement Act, 2013.

Perusal of the Award would go on to show that there was litigation pending, and there was a stay order from dispossession by this Court for 84.10

acres which was acquired by the Award in pursuance to the notification dated 27.12.2013 issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act').

In the written statement filed, the plea taken by the respondents is also that the payment of compensation to the landowners was delayed as the matter was *sub-judice* before the Court. Therefore, the claim of the petitioners for the interest on the delayed payment is not maintainable. The possession remained with the landowners and only after payment was made on 17.04.2017 through RTGS, the possession was handed over to HSVP in August, 2017. Reference is also made to the communication dated 17.09.2019 (Annexure R-1) in this regard. A speaking order has also been passed dated 07.10.2019 (Annexure R-2) by respondent No. 2.

State counsel has relied upon a judgment of Hon'ble Supreme Court in the case of ***Ratti Ram Versus Union of India; 2016 (2) RCR (Civil) 463***, and the provisions of Section 28 of the Act to contend that if the possession continues with the landowners the entitlement of the interest for delay would not be there. Section 28 of the Act reads as under:-

“28. Collector may be directed to pay interest on excess compensation. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of nine per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court:

Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the

date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry.”

Faced with this situation, counsel for the petitioner seeks liberty to challenge the speaking order, if so desired, by giving the details of necessary averments regarding the litigation which was pending which also led to delay in taking possession.

In view of the above, the petition is disposed of with the above terms.

23rd January, 2020
shabha

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No