

21.12.2021

Sl. 2

Ct.No. 3

Amalranjan

(Via Video Conference)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

FA 43 1998

**Union of India
Vs
Haliman Bibi & Ors.**

Mr. Pramod Kumar Drolia
Mr. Santosh Kumar Pandey
...for the appellant

Mr. Ambu Bindu Chakraborty
Mr. Rakib Hussain
...for the respondent nos. 4 to 11

Ms. Mrinmoyee Roy Chowdhury
...for the respondent nos. 1 to 3 & 12 & 13

A very short question is involved in this appeal which is pending in this court for over 30 years.

The only grievance of the appellant is to the award of solatium and interest.

The date of acquisition of the subject property was 5th November, 1974. The date of the award was 14th October, 1998. The compensation amount was very small being Rs. 95,850/-.

We are of the view that the respondents should no longer be deprived of what is reasonably due to them.

The respondents' property was requisitioned and subsequently acquired by the central government under the Defence of India Act read with the Requisitioning and Acquisition of Immovable Property Act, 1952.

The learned arbitrator exercising jurisdiction under the said Act awarded the compensation, solatium and interest to the respondents.

The award of the arbitrator is under challenge before this court by the central government.

Further to an interim order passed in this appeal the awarded amount has been deposited by the central government with the learned Registrar General of this court.

According to the statement of accounts furnished by the High Court Administration dated 21st April, 2021, the said deposited amount has been invested in a term deposit with the Punjab National Bank, High Court Branch, of which the maturity value is Rs. 13,54,735.04, the date of maturity being 23rd September, 2021.

Mr. Drolia, learned counsel for the appellant argues that under the aforesaid Act, which

circumscribed the power of the learned arbitrator he had no jurisdiction to grant solatium and interest.

We were shown a Supreme Court decision of a Bench comprising of 5 Judges in the case of - Union of India Vs. Chajju Ram (Dead) by LRS and Ors. reported in (2003) 5 SCC 568, - when the court after analysing the scheme of requisitioning and acquisition under the said Act in detail, refrained from ordering refund of solatium and interest on a small compensation amount paid to the owner of the land in that case.

In this case, the amount of compensation is also small Rs. 95,850/-. The solatium being 30% thereof is Rs. 28,755/-. The interest awarded by the arbitrator is Rs. 1,77,937/-. The gross deposit is nearly Rs. 14 lakhs as of today.

Considering the above facts and the above decision of the Supreme Court, we are of the view, that the respondents should be allowed to withdraw 50% of the amount in the hands of the learned Registrar General, High Court, Calcutta, as of today, which include their claim for compensation solatium and interest. The balance amount should be refunded by the learned Registrar General to the Directorate

General Defence Estate, Kolkata/Defence Estate
Officer, Kolkata Circle.

This exercise should be carried out by the
learned Registrar General, High Court, Calcutta,
within 4 weeks of communication of this order,
the period covered by the Christmas vacation
excepted by breaking the term deposit
prematurely.

The appeal (FMA 43 of 1998) is disposed of.

(Aniruddha Roy,J.)

(I. P. Mukerji,J.)