

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO. 01 OF 2018

Mahadeo Bapurao Dhengre__ Vs. __The State of Maharashtra and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. H.A.Deshpande, Advocate for appellant
Mr. T.M.Zaheer, Advocate for Respondent No.2
Mr. M.A.Kadu, AGP for Respondent Nos. 1 & 3

CORAM : AVINASH G. GHAROTE, J.
DATE : 30/11/2022

1] The only ground raised in this appeal is whether the claimant would be entitled for interest on solatium. Mr. Deshpande, learned Counsel for the appellant has placed reliance upon **Sunder Vs Union of India (2001) 7 SCC 211**.

2] In **Sunder** (supra), the Hon'ble Apex Court while considering this position has held as under :

“23. In deciding the question as to what amount would bear interest under Section 34 of the Act a peep into Section 31(1) of the Act would be advantageous. That sub-section says:

"31 (1) On making an award under Section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub- section."

The remaining sub-sections in that provision only deal with the contingencies in which the Collector has to deposit the amount instead of paying it to the party concerned. It is the legal obligation of the Collector to pay "the compensation awarded by him" to the party entitled thereto. We make it clear that the compensation awarded would include not only the total sum arrived at as per sub-section (1) of Section 23 but the remaining sub-sections thereof as well. It is thus clear from Section 34 that the expression "awarded amount" would mean the amount of compensation worked out in accordance with the provisions contained in Section 23, including all the sub-sections thereof.

24. The proviso to Section 34 of the Act makes the position further clear. The proviso says that "if such compensation" is not paid within one year from the date of taking possession of the land, interest shall stand escalated to 15% per annum from the date of expiry of the said period of one year "on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry". It is inconceivable that the solatium amount would attract only the escalated rate of interest from the expiry of one year and that there would be no interest on solatium during the preceding period. What the legislature intended was to make the aggregate amount under Section 23 of the Act to reach the hands of the person as and when the award is passed, at any rate as soon as he is deprived of the possession of his land. Any delay in making payment of the said sum should enable the party to have interest on the said sum until he receives the payment. Splitting up the compensation into different components for the purpose of payment of

interest under Section 34 was not in the contemplation of the legislature when that section was framed or enacted.

3] Mr. Zaheer, learned counsel for Respondent No. 2 in the present appeal does not dispute the above proposition.

4] In **Sudner** (surpa) it has been categorically held that the compensation would include all the factors which are included in sub-sections of Section 23 of the Land Acquisition Act, considering which, the appellant in this case which would be equally entitled for interest on solatium in view of what has been held in **Sunder** (supra).

5] That being the position, the award of the Reference Court impugned in this appeal stands modified by directing that the interest is also payable upon the solatium from the date of possession.

6] The amount be appropriately calculated by the authority and be disbursed to the claimant, in case the same has not been paid earlier at any point of time by the authority, within a period of six weeks from today.

7] In case, any court fee is liable to be paid on the enhancement, the same shall be paid by the claimant

8] Resultantly, the appeal is allowed in the above terms.

JUDGE

Rvjalit