

**CR-8528 of 2017 (O&M)
and other connected cases
Date of decision: 30.08.2022**

Jai Pal **..Respondent**

Mr. Jagdish Manchanda, Advocate
for respondent (in CR-8528, 8530, 8659, 8660, 8662, 8665,
8666, 8670, 8673, 8675, 8678, 8680, 8923, 8927, 8928, 8935,
9184 of 2017)

The petitioner herein is a beneficiary of the compulsory acquisition of the land for constructing a Thermal Power Plant. Dissatisfied with the amount offered by the Land Acquisition Collector, the landowners filed applications under Section 18 of the Land Acquisition Act, 1894, with a request to forward the case to the Reference Court for the assessment of

the market value. The Additional District Judge, Jagadhri, vide order dated 27.01.2000, assessed the market value of the 'Chahi', and 'Nehri' land @ Rs. 2,00,000/- per acre, whereas the remaining land was assessed at Rs.1,69,000/- per acre.

In the appeal filed by the petitioner, the High Court reduced the market value vide judgment dated 04.12.2008. The landowners were held entitled to Chahi/Nehri land @ Rs.1,46,884/- per acre, whereas Banja Quadim/Barani was assessed at Rs.73,442/- per acre. Under the orders passed by the Additional District Judge, the payment was received by the landowners. In such a situation, the landowners were required to refund the amount. In execution petition the landowners refunded the excess amount and the Court refused to grant interest on the aforesaid amount of refund, vide order dated 18.09.2013. Thereafter, the petitioner filed various applications under Section 144 of the Code of Civil Procedure, 1908, claiming interest, the same have been dismissed by the Executing Court.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

Mr. Mahajan, the learned counsel representing the petitioner while drawing the attention of the Court to Section 144 of the Code of Civil Procedure, 1908, submits that while restituting, the Court is enabled to order the payment of the amount along with interest, damages, compensation and mesne profits. He submits that the executing Court has erred in observing that there is no provision for grant of interest on restitution of the excess amount.

Per contra, the learned counsels representing the landowners

contend that when the High Court reduced the amount of market value, the petitioner never made any request to the Court for refund of the excess amount along with interest and the Executing Court cannot go beyond the decree passed.

This Court has considered the submissions of learned counsel representing the parties.

Undoubtedly, Section 144 of the Code of Civil Procedure, 1908, enables the Court to pass order of refund of the excess amount along with interest, damages, compensation and mesne profit. However, it is the discretion of the Court. The expression used by the statute is 'may' and not 'shall'. In the present case, the respondents are farmers, who stand deprived of their invaluable land which was probably their only source of income. The land has been acquired against their wishes by the State in exercise of its eminent domain power. The landowners have already refunded the excess payment. The High Court while deciding the Regular Second Appeals did not order refund of the excess payment with interest. Moreover, in execution petition, the Court declined to pay the interest vide order dated 27.04.2013 and the petitioner never assailed its correctness.

Keeping in view the aforesaid facts, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

August 30, 2022

(ANIL KSHETARPAL)
JUDGE

nt

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