

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1000 OF 2022
IN
FIRST APPEAL NO. 1074 OF 1987

Gajanan Anant Mahamunkar (deceased)
Thr. Legal heirs Prakash Gajanan
Mahamunkar and Ors. ...Applicants

In the matter between:

State of Maharashtra thr. Special Land
Acquisition Officer No.2, Raigad ...Appellant

Versus

Gajanan Anant Mahamunkar and Ors. ...Respondent

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Mr. S.S. Borulkar for the Applicants
Ms. Tanaya Goswami, AGP for the Respondent/State in IA

CORAM : M.M.SATHAYE J.
DATE : 07th DECEMBER 2023

PC. :

1. Heard learned counsel for the Applicants and learned
AGP for the Respondent/State.

2. This application is filed for modification of Judgment
and Order dated 07.07.2000 passed by this Court in the above
first appeal. Prayers clauses (a) and (b) of this Application
read thus :

*“(a) This Hon’ble Court be please to allow this
application and modify the Judgment dated
07/07/2000 passed by this Hon’ble Court in this First
Appeal to the extent of declaring that the Applicant
through his legal heirs are entitled for interests on*

aggregate compensation including solatium by the virtue of judgment of Sunder vs Union of India.

(b) This Hon'ble Court be pleased to direct the Respondent to pay the entire balance amount compensation with interest as awarded by Reference Court by Judgment and order dated 30/09/1986 in Reference Case No.52 of 1982 which was withheld at the time of disposal of the First Appeal bearing No. 1074 of 1987."

3. The learned counsel for the Applicant invited this Court's attention to the Order dated 07.07.2000 by which the above First Appeal was disposed of. Indeed, liberty was reserved for the Claimant/s to make an application to the Court for appropriate relief/s in case the view taken in the judgment of the Hon'ble Supreme Court in ***Premnath Kapur & Ors. v/s. National Fertilizer Corpn. India Ltd***¹ (which was referred to the larger Bench at that time) is reversed.

4. It is further submitted that in the case of ***Sunder Vs. Union of India*** (supra), the Hon'ble Supreme Court has taken a view, which entitles the Applicants to make this application and seek appropriate additional amount by way of interest on aggregate compensation including solatium.

6. Considering these fact, this Court by Order dated 09.03.2023 has permitted the Applicants to submit necessary calculations to the learned AGP for working out the amount of interest on solatium. By Order dated 30.11.2023, this Court has recorded that necessary calculations have been furnished

¹ (1996) 2 SCC 71

by the Applicants and the learned AGP, who had sought time to take appropriate instructions and that is how the matter is appearing today on board.

7. Learned AGP for State submits that appropriate orders may be passed in view of the Judgment passed by the Hon'ble Supreme Court in the matter of ***Sunder Vs. Union of India*** (supra).

8. I have considered the judgment of the Ho'ble Supreme Court in ***Sunder Vs. Union of India*** (supra). The paragraph 26 and 27 of the said Judgment read thus:

"26.We think it useful to quote the reasoning advanced by Chief Justice S.S. Sandhawalia of the Division Bench of the Punjab and Haryana High Court in State of Haryana vs. Smt. Kailashwati and ors.(AIR 1980 P&H 117).

"Once it is held as it inevitably must be that the solatium provided for under Section 23(2) of the Act forms an integral and statutory part of the compensation awarded to a landowner, then from the plain terms of Section 28 of the Act, it would be evident that the interest is payable on the compensation awarded and not merely on the market value of the land. Indeed the language of Section 28 does not even remotely refer to market value alone and in terms talks of compensation or the sum equivalent thereto. The interest awardable under Section 28 therefore would include within its ambit both the market value and the statutory solatium. It would be thus evident that the provisions of Section 28 in terms warrant and authorise the grant of interest on solatium as well".

27. In our view the aforesaid statement of law is in accord with the sound principles of interpretation. Hence the person entitled to the compensation awarded is also entitled to get interest on the aggregate amount including solatium. The reference is answered accordingly ."

9. It is therefore plainly seen that the Hon'ble Supreme Court has held that claimants in such cases are entitled to get interest on aggregate amount including solatium amount.

10. Considering the aforesaid facts and circumstances and further considering the liberty reserved in favour of the Applicants and also considering the aforesaid observations of the Hon'ble Supreme Court, this Court is of the view that present application needs to be allowed.

11. Hence, following order is passed:

(i) Civil application is allowed in terms of prayer clauses (a) and (b).

(ii) It is clarified that the Applicants are entitled to interest on the aggregate amount including solatium also, as per calculation submitted by the Applicants to the learned AGP.

12. The Court is informed that the amount of compensation involved in this matter, is deposited in the Reference Court i.e. Court of Civil Judge, Senior Division, Alibaug, Raigad. Since this application is allowed, the Applicants are at liberty to make necessary application in the said Reference Court for

withdrawal of the amount along with the interest on solatium.

13. Learned Reference Court is directed to pass appropriate orders within a period of four weeks from the date of presentation of this order alongwith necessary Application.

14. Interim Application is disposed of.

15. All concerned to act on duly authenticated or digitally signed copy of this order.

[M.M.SATHAYE,J.]