

²⁵⁸ IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2841-2016 (O&M)
Decided on:-22.08.2023

Rehti Devi (deceased) thr. her LRs. and ors.

....Petitioners.

vs.

State of Haryana and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sanpreet Sandhu, Advocate for
Mr. Ashish Pannu, Advocate,
for the petitioners.

Mr. RKS Brar, Additional Advocate General, Haryana.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition, challenge has been laid to an order dated 04.09.2015, passed by the Executing Court-cum-Additional District Judge, Karnal, whereby the right to claim interest on the amount of solatium has been reduced w.e.f. 19.09.2001.

2. Briefly stating, the land owned by the petitioners, situated in the revenue estate of Karnal was sought to be acquired vide notification dated 22.06.1982, issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "1894 Act") for the public purpose, namely for the development and utilization of residential area of Sector 9 at Karnal. Notification under Section 6 of the 1894 Act was published on 24.02.1984 and thereafter, award under Section 11 of the 1894 Act was passed.

3. Being dissatisfied, the landowners invoke Section 18 of the 1894

Act and the said reference was decided vide award dated 21.07.1988. The continuation thereof, the issue regarding determination of compensation finally came to be decided by the Hon'ble Supreme Court vide its decision dated 31.07.2014. Based thereupon, the petitioners filed execution application. During the pendency of the execution application, an issue was framed by the Executing Court as regards the payment of interest on solatium for the period prior to 19.09.2001 i.e. the date of decision by Hon'ble the Supreme Court in case of "***Sunder vs. Union of India***", AIR 2001 SC 3516, followed by decision in case of "***Gurpreet Singh vs. Union of India***", 2006 AIR SCW 5813.

4. Relying upon the aforesaid judgments, the Executing Court vide order dated 04.09.2015, held that the petitioners were entitled for interest on the amount of solatium and additional amount w.e.f. 19.09.2001 only and not from the date when possession was taken by respondents from the landowners.

5. While assailing the aforesaid order by way of present revision petition, learned counsel for the petitioners submits that the decision made in ***Gurpreet Singh's*** case (supra) was not applicable to the present facts and circumstances as the final determination of the market value was done in the case in hand by Hon'ble the Supreme Court vide its decision dated 31.07.2014 i.e. much after the date of decision in case of ***Sunder's*** case (supra).

6. On the other hand, learned State counsel submits that a well reasoned order has been passed by the Executing Court while relying upon decision made by the Hon'ble Supreme Court in case of ***Gurpreet Singh's***

(supra), which was fully applicable to the facts and circumstances of the present case, as no specific award of interest on solatium was granted in favour of the petitioners/landowners while determining the market value and thus, the Executing Court was not competent to award any interest.

7. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioners.

8. Once the final determination of compensation was made in the present case vide judgment dated 31.07.2014 passed by the Hon'ble Supreme Court, which was post decision in *Sunder's case (supra)*, the observations made by Hon'ble the Supreme Court in *Gurpreet Singh's case (supra)* were not applicable as in the said case, the Hon'ble Supreme Court was primarily dealing with the powers of Executing Court to grant interest on the amount of solatium in the cases wherein there was no specific mention of either grant or denial of solatium to the landowners by the Reference Court or the higher Courts while determining the quantum of market value. This issue has already been dealt with by this Court in detail vide its decision dated 11.07.2023 passed in CR-1497-2013, titled as *"Union of India and another vs. Ajaib Singh and others"*. Relevant portion of para 14 of *Ajaib Singh's case (supra)*, is reproduced hereunder for reference:-

"xxxx It is important to note here that the above proposition was laid down while dealing with the rule of appropriation in execution of money decree in land acquisition matters, thus, the same was in fact only to enlarge the scope of the execution proceedings in a certain way to confer powers upon the Executing Court to grant benefit of interest on

solatium in cases where determination on the question of market value and compensation was finally over before the reference Court as well as the Appellate Court.

Needless to repeat that the entire discussion in Gurpreet Singh’s case (supra) was about cases, wherein the final determination of compensation was over by the time, judgment in Sunder’s case (supra) was rendered and the same could not be made applicable to the claims made by the landowners in the cases, where the question of quantum of market value and compensation was pending, but determined finally, post decision in the case of Sunder’s (supra), by reading and applying the text from the judgment in case of Gurpreet Singh’s (supra) in absolute terms as a statute; rather than reading the point of law it lays down by reference to the issue involved. Xxx”

9. In view of the discussion made herein above, the order dated 04.09.2015, passed by the Executing Court, is hereby set aside with the direction that the petitioners shall be entitled for release of award of interest on solatium as well as additional compensation on the market value determined by the Hon’ble Apex Court vide its decision dated 31.07.2014. It is further made clear that the award of interest shall always be regulated by the observations made by Hon’ble the Supreme Court vide its decision dated 31.07.2014, whereby the interest was denied for the period of delay in approaching the Hon’ble Apex Court.

10. Accordingly, the present petition stands disposed of.

11. Pending application(s), if any, shall also stand(s) disposed of.

22.08.2023

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No