

**CR-1580-2021 (O&M)
and other connected cases**

1

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR-1580-2021 (O&M)
and other connected cases**
Date of decision: 02.03.2023
Reserved on: 26.08.2022

Union of India

....Petitioner

Versus

Charan Dass and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arun Gosain, Senior Government counsel
for the petitioner- UOI

Mr. Shailendra Jain, Sr. Advocate with
Mr. Rakesh Gupta, Advocate for the respondents

ANIL KSHETARPAL, J

1. By this order, a batch of 21 civil revision petitions (details whereof are at the foot of the judgment) shall stand disposed of.

2. In the considered opinion of this Court, the following two questions arise for adjudication:-

i) Whether the Executing Court can direct the payment of interest on the additional amount payable at the rate of 12% per annum under Section 23(1-A) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') particularly when there is no such specific direction in the award passed under Section 18 or appeal under Section 54 of the 1894 Act or the Letters Patent Appeal?

ii) Whether the Executing Court can direct the payment of interest on the amount of solatium payable under Section 23 (2) of the

1894 Act before the date of judgment passed in **Sundar vs Union of India** (2001) 7 SCC 211 particularly when there is no specific order to this effect by the court in the award under Section 18 or appeal under Section 54 of the 1894 Act or the Letters Patent Appeal?

3. This batch of revision petition has been filed challenging the correctness of the orders passed by the Executing Court on 20th October, 2016 and 23rd March, 2021. Without going into the detailed facts or tracing the history of the acquisition, it is sufficient to notice that the Reference Court (hereinafter referred to as 'RC') vide award dated 6th April, 1998 re-assessed the market value while observing as under:-

51. In view of my finding on the issues above, the market value of the acquired land of the petitioners in all the land references, irrespective of the quality of the land, is determined as Rs.2,33,750/- per acre. It is made clear that the total area of the acquired land of petitioner. Gram Panchayat of village Sher Majra is 41 kanals and, therefore, the compensation/enhanced compensation to the Gram Panchayat should be paid accordingly. It is further made clear that the acquired area of petitioners Nitia Nand etc. in land reference No. 116-I is 80 kanals 5 Marlas and not 79 kanals 16 Marlas and they are entitled to compensation/enhanced compensation, accordingly. Benefits of increase at the rate of 12% under section 23 (1-A), solatium under section 23 (2) and interest u/s 28 of the Act, as admissible thereunder, are also allowed to the petitioners on the enhanced amount of compensation. The date of taking the possession of the acquired land is held as 3.2.1992, as already held by me as per my detailed discussion in para in 64 and 65 of award Ex.P19."

4. In appeal under Section 54 of the 1894 Act, the High Court vide judgment dated 1st April, 1999 held as under:-

“In view of the above detailed discussion, the judgment/ award of the learned Additional District Judge, Patiala dated 6.4.1998 is modified to the extent that claimants would be entitled to receive a compensation of Rs.92.60 per square yard (Rs.4,48,159. Per acre) with all statutory benefits under Sections 23(1-A), 23 (2) and 28 of the Act. In view of the above, the appeals preferred by the State arising from the awards passed by the learned District Judge in Regular First Appeal No.3531 of 1998, titled Union of India versus Hardev Singh, Regular First Appeal No. 3557 of 1998 titled Union of India versus Gram Panchayat, Pashiana, and Regular First Appeal No. 3745 of 1998 titled Union of India and others Versus Babu Ram and others, are dismissed. However, the appeals preferred by the claimants are partly accepted to the above extent, leaving the parties to bear their own costs.”

5. In Letters Patent Appeal decided on 25th February, 2005, the operative part of the judgment reads as under:-

“When we add amount of sale instance Ex.X-3 in the value of above mentioned six sale instances, total sale consideration would come to Rs.37,44,271/- and average price per acre comes to Rs.5,34,896/-. Cut to the extent of 15% would come to Rs.80,234/-. Accordingly, net amount payable per acre would come to Rs.4,54,662/-. This Court is of the opinion that in view of calculation made above, claimants in connection with previous acquisition (498.03 acres), which was acquired vide notification dated 16.9.1988 would be entitled to get above mentioned compensation instead of Rs.4,48,159/- per acre, alongwith statutory benefits under Section 23(1-A), 23 (2) and 28 of the Act.”

6. The appeals filed before the Supreme Court were dismissed on 9th September, 2014.

7. The Union of India filed the objections while disputing the correctness of the calculation submitted by the landowners. In these revision petitions, there are only two issues as already noticed by the Court. The Executing Court has held that the interest is payable not only on the additional amount payable under Section 23 (1-A) of the 1894 Act, but even on the amount of solatium. Moreover, the interest is held to be payable from the date on which the possession was taken. That is how these revision petitions have come up for final disposal.

8. Heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

9. On the one hand, the learned counsel representing the Union of India while drawing the attention of the Court to the judgment passed in **Sundar's case (supra)**, **Gurpreet Singh vs Union of India** (2006) 8 SCC 457 submits that no interest is payable on additional amount before the date of judgment in **Sunder's case (supra)** whereas, on the other hand, the learned counsel representing the landowners while relying upon **Periyar and Pareekanni Rubbers vs. State of Kerala** (2016) 1 SCC 294 C.A 7034-7037 of 2015 decided on 14.11.2018 and the judgment passed in **UOI vs. Hardev Singh and others** CR-2249-2017 decided on 08.03.2014 and other connected cases, submits that the interest is payable not only on the additional amount but also on the amount of solatium from the date of dis-possession.

10. This Court has considered the submissions and examined the paperbooks. During the course of hearing, the learned State Counsel has produced a copy of the paper book in CR 1663 of 2021 containing

the judgment passed by the RC as well as the Appellate Court, the correctness whereof is not disputed by the learned counsel representing the parties.

Issue No.2

11. The issue of interest payable on the amount of solatium was considered by a Five Judge Bench in **Sundar's case (supra)**. It was held that the interest is payable on the component of solatium which is awarded as compensation for the compulsory nature of involuntary acquisition of the land. In **Gurpreet Singh's case (supra)**, another Five Judge Bench, once again, considered the issue in detail and held as under:-

“One other question also was sought to be raised and answered by this Bench though not referred to it. Considering that the question arises in various cases pending in Courts all over the country, we permitted counsel to address us on that question. That question is whether in the light of the decision in Sunder (supra), the awardee/decreed-holder would be entitled to claim interest on solatium in execution though it is not specifically granted by the decree. It is well settled that an execution court cannot go behind the decree. If, therefore, the claim for interest on solatium had been made and the same has been negatived either expressly or by necessary implication by the judgment or decree of the reference court or of the appellate court, the execution court will have necessarily to reject the claim for interest on solatium based on Sunder (supra) on the ground that the execution court cannot go behind the decree. But if the award of the reference court or that of the appellate court does not specifically refer to the question of interest on solatium or in cases where claim had not been made and rejected either expressly or impliedly by the reference court or the appellate court, and merely interest on compensation is awarded, then it would be open to the execution court to apply the ratio of Sunder (supra) and say that the compensation awarded includes solatium

and in such an event interest on the amount could be directed to be deposited in execution. Otherwise, not. We also clarify that such interest on solatium can be claimed only in pending executions and not in closed executions and the execution court will be entitled to permit its recovery from the date of the judgment in Sunder (September 19, 2001) and not for any prior period.

We also clarify that this will not entail any re-appropriation or fresh appropriation by the decree-holder. This we have indicated by way of clarification also in exercise of our power under Articles 141 and 142 of the Constitution of India with a view to avoid multiplicity of litigation on this question. 2001 AIR SCW 3692 2001 AIR SCW 3692.”

12. In **Periyar’s case (supra)**, there was a difference of opinion between the two Hon’ble Judges of the Supreme Court. Thus, the matter was referred to the Larger Bench. However, by a short order which is not reported in the law journals, the Supreme Court on 14.11.2018 did not answer the question but decided the case on the peculiar facts involved therein.

13. It may be noticed here that in **Gurpreet Singh’s case (supra)**, the Supreme Court specifically ordered that if the court while passing the judgment has not denied or provided for, either expressly or by necessary implication, the claim of interest on the solatium, then, the interest on the component of solatium shall be payable from the date of the judgment in **Sundar’s case (supra)** i.e 19th September. 2001 and not for any prior period. The ratio laid down in the said judgment passed by the Five Judges Bench is binding in nature.

14. In **Central Government of India versus Raj Devi @ Raj Kumari** bearing CA-46231-2021, the Supreme Court, once again,

considered the aforesaid issue and found that if the court does not specifically order payment of interest on solatium from the date of dispossession, then, the Executing Court is not correct in awarding such interest prior to the date of judgment passed in **Sunder's case (supra)**. The operative part of the judgment passed in **Raj Devi's case (supra)** reads as under:-

"We have perused the order which is relied on by the learned counsel for the respondent. It is true that the special leave petition carried by the appellant was dismissed. However, what is pertinent to note is what was the issue which was involved in the said case. In a batch of matters, the Executing Court in the said case had awarded interest on solatium from the date of the judgment in Sunder supra. It was this order which was upheld by the High Court by its judgment dated 25.01.2013. We may only notice paragraph 6 of the said judgment:

"6. In view of the legal proposition enunciated in these authorities, Court of Reference/Executing Court was perfectly justified in allowing the interest on the solatium with effect from September 19th, 2001 in execution proceedings."

It is this order which was the subject matter of the special leave petition before this Court which came to be dismissed. In other words, this was the case where the Executing Court had applied the principle in Gurpreet Singh supra and granted interest on solatium from the date of the judgment in Sunder viz., 19-09-2001 in the execution proceeding. We are unable to comprehend as to how this judgment can come to the rescue of the respondent. We are, therefore, of the clear view that the appeal is to be allowed. Accordingly, we allow the appeal. Impugned order will stand set aside. The order which was impugned before the High Court will stand set aside and it is ordered that the 1st respondent will be entitled to interest on solatium from the date of Sunder (supra) viz. 19-9-2001.

No orders as to costs."

15. The judgment passed in **Raj Devi's case** is subsequent to the judgment by this Court passed in **Hardev Singh's case (supra)**. Hence, the Supreme Court judgment in **Raj Devi's case (supra)** is required to be followed.

16. In view of the aforesaid, while answering issue No.2, it is held that on the amount of solatium, the interest shall be payable from the date of the judgment passed in **Sunder's case (supra)** i.e 19.09.2001 and not from the date of dispossession.

Issue No.1

17. Now, let us examine question no.1. The aforesaid question does not require detailed deliberations particularly in view of the fact that the aforesaid issue is no longer res integra in view of the judgment passed by the Supreme Court in **State of Punjab versus Amarjeet and another (2011) 4 SCC 734 and Chhanga Singh and others vs. Union of India (2012) 5 scc 763** wherein, it has been held that the interest on the aggregate of the market value, solatium and additional amount shall be payable from the date of taking possession to the date of payment. The operative part of the judgment rendered in **Amarjeet's case (supra)** reads as under:-

“12. Thus a person whose land is acquired is entitled to the following amounts under the Act:

(a) Compensation determined under Section 23(1) of the Act (comprising the market value of the land referred to as the first factor and any damages/expenses referred to as the second to sixth factors under the said sub-section).

(b) Solatium at 30% on the market value determined as the first factor under Section 23(1) of the Act.

(c) Additional amount at 12% per annum of the market value of the land referred to as the first factor under Section 23(1) of the Act, for the period specified in Section 23(2).

(d) Interest on the aggregate of (a), (b) and (c) above for the period between the date of taking possession to the date of payment/deposit at the rate of 9% per annum for the first year and 15% per annum for the remaining period.

Payments made are to be adjusted and accounted in the manner set out in Gurpreet Singh v. Union of India [(2006) 8 SCC 457].”

18. In view of the aforesaid discussion, the result is inevitable. The order passed by the Executing Court on 28th October, 2016 as well as on 23rd March, 2021 are partially set aside. It is held that the interest on the component of solatium shall be calculated from 19th September, 2001 and not from the date of dispossession.

19. With these observations, the revision petitions stand disposed of.

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

02.03.2023
rekha

(ANIL KSHETARPAL)
JUDGE

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

**CR-1580-2021 (O&M)
and other connected cases**

10

SR. NO.	CASE NO.	PARTIES NAME
1.	CR No.1580 of 2021	Union of India Vs. Charan Dass and others
2.	CR No.1582 of 2021	Union of India Vs. Ginder Singh and others
3.	CR No.1583 of 2021	Union of India Vs. Bachan Singh @ Gurbachan Singh and others
4.	CR No.1584 of 2021	Union of India Vs. Khushi Ram deceased represented by his Lrs and others
5.	CR No.1585 of 2021	Union of India Vs. Mam Chand and others
6.	CR No.1586 of 2021	Union of India Vs. Raj Kumar and others
7.	CR No.1587 of 2021	Union of India Vs. Jagar Singh deceased represented by his Lrs and others
8.	CR No.1588 of 2021	Union of India Vs. Sukhpal Singh deceased represented by his Lrs and others
9.	CR No.1589 of 2021	Union of India Vs. Harkesh Kumar deceased represented by his Lrs and others
10.	CR No.1590 of 2021	Union of India Vs. Krishan Chand deceased represented by his Lrs and others
11.	CR No.1591 of 2021	Union of India Vs. Bant Ram and others
12.	CR No.1592 of 2021	Union of India Vs. Surinder Paul @ Surinder Lal deceased represented by his Lrs and others
13.	CR No.1593 of 2021	Union of India Vs. Bhagwant Kaur and others
14.	CR No.1594 of 2021	Union of India Vs. Bhagwanti and others
15.	CR No.1596 of 2021	Union of India Vs. Shingara Singh Deceased Represented By His Lrs & Ors
16.	CR No.1595 of 2021	Union of India Vs. Ajmer deceased represented by her lrs & ors
17.	CR No.1598 of 2021	Union of India Vs. Ajmer Kaur Deceased Represented By Her Lrs & Ors
18.	CR No.1600 of 2021	Union of India Vs. Sukhinder Singh @ Sukhwinder Singh Deceased Represented By His Lrs & Ors
19.	CR No.1603 of 2021	Union of India Vs. Ajmer Kaur Deceased Represented By Her Lrs & Ors
20.	CR No.1654 of 2021	Union of India Vs. Chinto & Ors
21.	CR No.1662 of 2021	Union of India Vs. Surinder Kaur & Ors

02.03.2023
rekha

(ANIL KSHETARPAL)
JUDGE