

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

165

CR No.7398 of 2023 (O&M)
DATE OF DECISION: 07th DECEMBER, 2023

Union of India and another

.... Petitioners

Versus

Harbhajan Kaur and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Arun Gosain, Advocate
for the petitioners.

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RAJBIR SEHRAWAT, J. (Oral)

1. The present revision petition has been filed under Article 227 of Constitution of India for setting aside the impugned order dated 24.08.2020 (Annexure P-3), whereby the application filed by the Decree Holder under Section 152 CPC has been accepted and impugned order dated 02.03.2021 (Annexure P-5), whereby the application for recalling the order dated 24.08.2020 has been dismissed, and the petitioner was ordered to make payment in favour of decree holder by the Executing Court of Additional District Judge, Pathankot in Execution No.40/2019, with certain other prayers made in the present petition.

2. As per the facts on record, the land of respondent No.1 was acquired way back in the year 1987. The award having been passed by the Collector, the amount of compensation was enhanced by the Additional District Judge, Gurdaspur, vide order dated 02.05.1990, vide

which the market value of the acquired land was enhanced at the rate of Rs.1400/- per marla along with 30% solatium, 9% interest for the first year and 15% interest thereafter till the date of payment. The petitioners, herein, had filed Regular First Appeal before this Court, however, the said appeal was dismissed by this Court, vide order dated 28.04.2004 and the award passed by the Additional District Judge, Gurdaspur was upheld. Still further, the Court had granted the benefit of additional market value in terms of Section 23 (1A) of the Land Acquisition Act, 1894. The petitioners, herein, had taken the matter even to Hon'ble the Supreme Court by filing SLP Nos.1314-1347/2005, however, the same was also dismissed by Hon'ble the Supreme Court, vide order dated 26.04.2017. As such, the amount of Rs.1400/- per marla become final, along with the additional market value as was clarified by the High Court in Regular First Appeal. The respondent No.1 had filed the execution petition, in which, the calculations were filed claiming therein the market value at the rate of Rs.1400/-per marla, additional market value and the interest on both these amounts. The petitioners filed the objection that the interest is not available on the component of additional market value. The said objection has been rejected by the Executing Court. Hence, the present petition has been filed.

3. It is submitted by learned counsel for the petitioners that the Court below has gone wrong in law in awarding the interest even on the amount of additional market value. Since, this particular amount is not the part of compensation, therefore, no interest could have been awarded on the same. Hence, the order passed by the Executing Court deserves to be set aside. Moreover, though the additional market value was allowed

by the High Court, however, the component of interest on the same was not awarded even by the High Court.

4. Having heard learned counsel for the petitioners and having perused the case file, this Court does not find any ground to interfere in the matter. Hon’ble the Supreme Court has clarified the position in the cases of *Gurpreet Singh Versus Union of India, 2006 AIR SCW 5813*, and *Sunder Versus Union of India, AIR 2001 SC 3516*, that the additional market value, *per se*, is part of the compensation. Therefore, the land owner shall be; *ipso facto*; entitled to the interest even on the amount of additional market value. Hence, the present petition is dismissed being devoid of any merits, as such.

5. Not only that, since the petitioners have unnecessarily gone to the extent of contesting on an issue of law which already stands decided by Hon’ble the Supreme Court long ago, therefore, the petitioners deserve to be burdened with an appropriate cost; so as to make them realize their mistake in wasting valuable time of the Court.

6. Accordingly, the petitioners are burdened with costs of Rs.25,000/-; to be paid to the land owner, along with the interest awarded by the Executing Court.

7. The pending miscellaneous application, if any, is also disposed of; as such.

07th DECEMBER, 2023
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No