(2013) 02 P&H CK 0171

In the Punjab And Haryana At Chandigarh

Case No : CR No. 3160, 3198, 3172, 3173, 3174, 3184, 3196, 3197, 4830, 4831, 4832, 4833, 4876, 4879 and 5625 of 2012

Hans Raj and Others APPELLANT

Vs

Central Government of India and Another RESPONDENT

Date of Decision : 21-02-2013

Acts Referred:
Land Acquisition Act, 1894 — Section 23(1A), 23(2), 28

Citation : (2013) 170 PLR 211

Hon'ble Judges : Nawab Singh, J

Bench : Single Bench

Advocate : B.S. Bedi, for the Appellant; Ranjana Shahi, for the Respondent

Final Decision : Allowed

Judgement

Nawab Singh, J.—This judgment shall dispose of aforementioned revision petitions because they have arisen out of common order dated February 4th, 2012 passed by the Court of Reference/Executing Court, Sirsa. The land owners whose land was acquired way back in the year 1990 were awarded compensation at the rate of Rs. 4,06,320/- per acre. They were also held entitled to the statutory sum in accordance with Section 23(1-A) and solatium u/s 23(2) of the Land Acquisition Act, 1894 (for short ''the Act'') besides interest as provided u/s 28 of the Act by this Court by judgment dated December 17th, 1998.

2. For facilitation, the order whereby amount of compensation was awarded is extracted as below:-

While adopting the reasoning given in Dr. Balbir Singh''s case (supra) and in view of the reasons and circumstances stated herein above, the Regular First Appeals preferred by the claimants are partly accepted while those preferred by the Union of India are dismissed. Resultantly, the claimants would be entitled to get a sum of Rs. 4,06,320/- per acre with all the statutory benefits available to them, more particularly under Sections 23(1-A), 23(2) and 28 of the Land

Acquisition Act. However, there shall be no order as to costs.

3. Against the said judgment, land owners as well as Union of India filed SLPs before the Hon''ble Supreme Court but the same were dismissed by judgment dated February 26th, 2009. On the basis of judgment passed by this Court, the land owners filed execution applications before the Court of Reference/Executing Court to pay them the amount of compensation as ordered. The Court of Reference/Executing Court interpreted the judgments of the Hon''ble Supreme Court rendered in Gurpreet Singh Vs. Union of India (UOI), and Land Acqn. Officer and Asstt. Commnr. and Another Vs. Shivappa Mallappa Jigalur and Others, that payment of interest on solatium can only be for the period subsequent to the date of decision in Sunder Vs. Union of India,

4. In considered opinion of this Court, the Court of Reference/Executing Court did not interpret the authorities referred to above properly or correctly.

5. In Shivappa''s case (supra) the Hon''ble Supreme Court after referring to the judgments passed in Sunder and Gurpreet Singh''s cases (supra) held as under:-

11. We are unable to accept the submission and in our view the decision in Gurpreet Singh has no application to the facts of the present cases. In para 54 of the decision in Gurpreet Singh case, the Court was considering the scope of execution proceedings and the limitations of the execution court. The three lines relied upon by Mr. Hegde must be read and understood in the context of what is said earlier. The Court clearly said that the execution court could not go beyond the decree. In the event, the claim of interest was rejected expressly or by necessary implication in the decree, it would not be permissible for the execution court to grant interest relying upon the decision in Sunder. But, even then the Court went on to clarify that if the award of the Reference Court or the appellate court was silent on the issue of solatium and interest then it would be open to the execution court to apply the ratio of Sunder and say that the compensation awarded would include solatium and in such an event interest on the amount could be directed to be deposited in execution. The decision in Gurpreet Singh, thus, actually enlarged the scope of execution proceeding, in a certain way, on the basis of the decision in Sunder.

12. Coming now to the passage specially relied upon by Mr. Hegde, we do not have the slightest doubt that the reference to ''closed executions'' does not mean cases in which the main proceeding arising from the landowner''s claim for enhanced compensation remains pending before the civil court or at the appellate stage. It may sometimes happen, as illustrated by this case that the award of the Collector or the decree of the civil court is put to execution and payments are made in terms of the award or the decree of the civil court and in that sense the award or the decree is satisfied. Nevertheless, an appeal against the award or the decree of the civil court may still remain pending either before the High Court or even before this Court. In appeal, the superior court may enhance the compensation which would lead to enhancement of solatium and

consequently the interest on the additional amounts of compensation and solatium. In such a situation, the claimant landowner would be bound to go back to the execution court for realisation of the additional amounts in terms of the modified decree. In such cases, the execution proceedings cannot be deemed to be closed and neither was it the intent of the observations in para 54 of the decision in Gurpreet Singh.

13. Coming now to the stipulation that any interest on solatium can only be granted for the period subsequent to 19-9-2001, the date of the decision in Sunder, it is evident that this again, is a limitation on the power of the execution court. The direction is actually referable to those cases in which the award of the Reference Court or the appellate court being silent, it is left open to the execution court to give direction for the deposit of interest on solatium. In such cases, the Reference Court can ask for interest only for the period subsequent to 19-9-2001. The direction in no way circumscribes the power of the court dealing with the main proceeding relating to enhancement of the compensation.

14. The matter can be looked at from another angle. The appeal being the continuation of the original proceeding, in the facts of the cases in this sub-group, there can be no question of accrual of interest only after the date of the decision in Sunder. At this stage, it may be recalled that the civil court had awarded solatium @ 30% and interest @ 9% for the first year and @ 15% from second year onwards till the date of realisation. The State''s appeal against the judgment of the civil court was dismissed. Thus, the direction for payment of solatium with interest at the rates indicated had become final. The High Court enhanced the rate of compensation. This would inevitably lead to an increase in the amount of solatium and consequently in the amount of interest on the unpaid amount of solatium. Thus, looked at from any point of view, the question of payment of interest subsequent to 19-9-2001 does not arise.

6. In view of the provisions of Section 23(1-A), 23(2) and Section 28 of the Act and the law enunciated in the authorities, the land owners were held entitled to the statutory benefits provided under the aforesaid Sections not after September 19th, 2001 but from the date of taking possession of the acquired land.

7. Hence, orders under challenge are set aside. The revisions are accepted. The land owners are held entitled to interest on solatium amount from the date of taking possession of the acquired land. Since the land was acquired in the year 1990, Union of India is directed to pay the entire amount of compensation in accordance with the judgment of this Court dated December 17th, 1998, at the earliest, preferably within six months from the date of receipt of this order.

