(1985) 10 P&H CK 0055

In the Punjab And Haryana At Chandigarh

Case No : L.P.A. No. 428 of 1981

Hindustan Sanitaryware and Industries Ltd. and Another APPELLANT

Vs

State of Haryana and Others RESPONDENT

Date of Decision : 15-10-1985

Acts Referred:

Land Acquisition Act, 1894 — Section 23(2), 28, 34

Citation : AIR 1986 P&H 289

Hon'ble Judges : S.P. Goyal, J;I.S. Tiwana, J;D.S. Tewatia, J

Bench : Full Bench

Judgement

D.S. Tewatia, J.—This Letters Patent Appeal, besides involving the determination of the correct market value of the acquired land, also involves the question of payment of interest on the amount of compensation, as the possession of the land had been taken from the respondent-landowners sometime in the year 1961. The Bench before whom the appeal came up for hearing in the first instance was referred to a Division Bench decision of this Court in Gurdial Singh v. State of Punjab 1977 Pun LJ 391 , on behalf of the respondent State, in which it was held that interest on the amount of enhanced compensation would be payable from the date of order enhancing the compensation amount, that is, in the present case, from the date of the order of the learned single Judge. From the side of the respondent claimants, much reliance was, however, placed on two division Bench decisions in The State of Punjab Vs. Karanbir Singh, and Raghbir Singh Vs. The Union of India, holding that the interest on the enhanced amount was payable from the date of dispossession. Before the Division Bench the conflict of judicial decision in regard to the fact as to whether it was the rate of interest that was prevalent on the date of taking possession or the rate of interest that was operative on the date of payment which was to become payable to the claimants was also adverted to. In view of the apparent conflict of the judicial decisions of the Benches of co-equal strength, the Division Bench referred the following question for the decision of a larger Bench:

"Whether interest on enhanced amount of compensation is to be payable from the date of the order enhancing the amount of compensation or from the date the possession of the acquired land is taken over by the acquiring authority and whether at a rate which was prevalent on the date of the taking over of the possession or at the rate which was operative on the date of payment or if there had been fluctuation in-between, then at such rates as prevailed from time to time between the date of the notification and the date on which payment of the principal amount is effected?"

That is how this appeal has come up before us.

2. The question referred to has two components (1) whether interest on enhanced amount of compensation is to be payable from the date of the order enhancing the amount of compensation or from the date the possession of the acquired land was taken over by the acquiring authority, and (2) whether payment of such interest would be at a rate which was prevalent on the date of taking over of possession or the rate which was operative on the date of payment or if there has been fluctuations in-between, then at such rate that prevailed from time to time between the date of the notification and the date on which the payment of the principal amount was effected.

3. In our opinion, both questions have been authoritatively and conclusively answered by the apex Court. Their Lordships in a case reported as Joginder Singh and Others Vs. State of Punjab and Another, , had the precise question before them. The case hand gone to the Supreme Court from this very High Court. In that case, the Land Acquisition Officer 3/8 determined a sum of Rs. 27,992,94 as compensation. Possession of the land was taken thereafter. On reference, the District Judge, by his judgment dated November 30, 1963, awarded an additional sum of Rs. 11,307.10 as compensation. Still not satisfied, the appellants took the matter in appeal to the High Court which, by its judgment dt. Mar. 8, 1977, held that the appellants were entitled to a further sum of Rs. 17,919.30 as compensation. The High Court held that the appellants were entitled to interest at the rate of 4 per cent per annum on the enhanced amount of compensation awarded by it which would be payable from the date, possession of the land was taken. The appellants sought review of that order insofar as it determined the rate of interest. The appellants had pointed our that Secs. 28 and 34 of the Land Acquisition Act, 1894, had been amended by the Haryana Act No. 8 of 1967, in consequence of which the rate of interest payable on the compensation awarded for acquisition of land had been enhanced from 4 per cent to 6 per cent per annum from the date possession was taken to the date of payment. The High Court held that the appellants were entitled to higher rate of interest even though the proceedings for determination of compensation were already pending before the amending Act was brought into force. The High Court thus ordered that on the amount of compensation as determined by the Land Acquisition Officer and the learned District Judge, the rate of interest would be six per cent per annum payable from the date of possession up to the date of

payment and on the amount of Rs. 17,919.30 representing the enhanced amount awarded by the High Court, the High Court applied the rate of four per cent per annum from the date of possession and six per cent per annum from the date of its judgment awarding the said amount. The High Court, it seems, proceeded on the assumption that the right to that amount of Rs. 17,919.30 arose to the appellants only from the date of its judgment. Their Lordships held that "the right to compensation and the quantification thereof are two distinct concepts. The right to compensation arises when the land vests in the State, while its quantification may be concluded much later. Although the process of quantification may pass though several stages, from the Land Acquisition Officer to the District Judge and thereafter to the High Court, the process of quantification is merely one of computing the value of the land on the principles enacted in the Land Acquisition Act. All along, however, the right to the compensation so quantified refers back to the date of acquisition. The additional amount of compensation awarded by the District Judge or by the High Court represents the difference between the true value of the land on the one hand and the actual amount awarded on the other which fell short of the true value. The owner of the land is entitled to be paid the true value of the land on the date of taking over of possessions. Since, however, the true value is usually determined only after it is computed through a multi-tiered process passing through different levels of a hierarchical judicial structure by the very nature of things it takes some time before the true value can be finally determined. The fact that it is determined later does not mean that the right to the amount comes into existence at a later date. And if, as the High Court has held, interest at 6 per cent per annum rules from the date possession was taken in the case of compensation determined by the learned District Judge there is no reason why the same rate should not be applied from the date possession was taken in the case of the enhancement effected by the High Court."

4. In view of their Lordships'' clear-cut enunciation there is no scope left for any doubt with regard to the fact that a landowner, or anyone entitled to compensation of the acquired land, becomes entitled from the date of his dispossession to the payment of interest on such amount of compensation as had not been paid or deposited in the treasury on or before the date on which the acquiring authority took over the possession of the acquired land. The authorities reported in The State of Punjab Vs. Karanbir Singh, and Raghbir Singh Vs. The Union of India, lay down the correct law, whereas the view taken in Gurdial Singh'' s case (1977 P&H LJ 391) (supra) stands reversed by the Supreme Court in the decision in Joginder Singh and Others Vs. State of Punjab and Another, .

5. As regards the rate of interest that a landowner is entitled to, it may be observed that this too has been authoritatively settled by their Lordships in a judgment rendered in Civil Appeal No. 1519-23 of 1985 Bhag Singh and Others Vs. Union Territory of Chandigarh through the land acquisition collector, Chandigarh, , in which it was held that the amount of compensation has to be assessed according to the mandate of Secs. 23(2) and 28 of the Land Acquisition

Act. That, means that the assessed compensation includes the value of the land, then added to it solatium at the prescribed rate, and the interest envisaged by the given provision payable from the date of dispossession till the date of payment. That means that such amount of compensation, as remained unpaid on the date of dispossessions, would carry that rate of interest which the given provision happens to prescribe on the date on which the question of compensation comes to be determined finally. For example, if the aggrieved party had taken the matter right to the Supreme Court and if on the date the Supreme Court decided the appeal, the rate of interest was different from the one which was operative on the date on which the High Court decided the appeal or the District Judge decided the reference, then the landowner would be entitled to that rate of interest which was operative on the date on which the Supreme Court decided the appeal in regard to such entire amount of compensation as had not been paid on or before the date of delivery of possession of the acquired land to the acquiring authority.

6. The case is now remitted back to the Division Bench to decide the claim of the appellants for compensation on merit and order, in the light of the ratio of this judgment, payment of interest from the date of dispossession at such rate as would be operative on the date on which it renders its decision in appeal.

7. Order accordingly.

