
(1999) 12 P&H CK 0057
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 6051 of 1999

Joginder Kumar and Others	Vs	APPELLANT
The Improvement Trust		RESPONDENT

Date of Decision : 08-12-1999

Acts Referred:

Land Acquisition Act, 1894 — Section 28

Citation : (2000) 125 PLR 624 : (2000) 2 RCR(Civil) 79

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Rajive Bhalla, for the Appellant;

Judgement

R.L. Anand, J.—Present is a revision and has been directed against the order dated, 25.8.1999 passed by the President, Improvement Trust, Pathankot who declined the request of the landowners to award interest at the rate of 12 per cent from the date when the Trust took the possession of the land in question.

2. Some facts can be noticed in the following manner. The land of the owners was acquired by the Trust in the year 1974 and a dispute arose with regard to the compensation and finally an award was made by the Tribunal on 4.6.1995.

3. Against the award of the Tribunal, the landowners filed a writ petition No.4166 of 1985 and the same was finally disposed of by Hon'ble Mr. Justice Amarjeet Chaudhary vide his judgment dated 12.9.1994 and the operative portion of the order is as follows:-

"Accordingly, the present writ petition is allowed and the petitioners are held entitled to compensation at the rate of Rs.700/- per marla along with other ancillary benefits under Sections 23(2) and 28 of the Act, as amended upto date. No order as to costs."

4. Aggrieved by the said judgment, Pathankot Improvement Trust filed an LPA No. 36 of 1995. This L.P.A. came up for hearing before Hon'ble Mr. Justice M.S.

Liberhan and Hon"ble Mr. Justice P.K. Jain on 24.4.1997 and the LPA was admitted and following interim order was passed:-

"Compensation at the rate of Rs.600/- per marlas along with 12 per cent interest may be paid subject to the furnishing of security."

The petitioners filed an execution application before the Executing Court praying that they may be awarded interest at the rate of 12 per cent from the date of the taking of the possession. This request was not accepted by the learned District Judge discharging the duty of President, Improvement Trust, Pathankot by holding as follows:-

"A bare reading of the aforesaid order makes it clear that the JD i.e. the Improvement Trust has been directed to pay the compensation at the rate of Rs.600/-per marla along with interest subject to the furnishing of the security, learned Counsel for the DHs urged that the DHs are entitled to the interest from the date of compensation and the learned counsel referred to Hindustan Sanitaryware and Industries Ltd. and Another Vs. State of Haryana and Others, , wherein, it was held that landowner is entitled to the payment of interim on enhanced amount from the date of taking over of possession and not from the date of enhancement. It is noteworthy that LPA 36 of 1985, Improvement Trust v. Joginder Kumar, is still pending, wherein, the interim order dated 24.4.1997 has been passed which is for compliance and therefore, when the writ is still pending , as to whether the DHs are entitled to the interest from the date of taking possession is a matter which is pending before the Hon"ble High Court and this Court is to abide by the order passed by the Hon"ble High Court i.e. dated 24.4.1997 in letter and spirit and no variation can be made by this Court in the said order. The JD has made the payment of the compensation at the rate of Rs.600/- per marla and interest from the date of the order and thus, the JD-respondent has complied With the order dated 24.4.1997 to make the payment of the compensation and interest. Therefore, at this stage, this court cannot make any order that the DHs are entitled to interest at the rate of 12 per cent per annum from the date of taking possession as the said matter is still pending in the Hon"ble High Court. Therefore, the warrant of attachment already issued stands released and the execution application is dismissed as partly satisfied."

6. In this manner, the petitioners are aggrieved by the order dated 25.8.1999.

7. I have heard Shri Rajive Bhalla, Advocate, on behalf of the petitioners who submitted that the order dated 24.4.1997 has simply clarified the order, passed, by Hon"ble Single bench in which only directions given were that the petitioners-landlords shall be granted compensation at the rate of Rs.600/- per marla with 12 per cent interest subject to furnishing of security. The counsel submitted that as per Section 28 of the Land Acquisition Act, the landowners are supposed to get interest right from the date when the possession is taken. Unfortunately, there is no clarification to this effect by the Hon"ble Division Bench and in these circumstances, the Executing Court, which only could interpret the order as it

stood, could not award interest to the petitioners. The petitioners in these circumstances, will have to do one more exercise by seeking clarification from the Hon''ble Division Bench itself as to from which date the interest at the rate of 12 percent is supposed to be paid to the petitioners.

8. In this view of the matter, the present revision is hereby disposed of with the observations that it will always be open to the petitioners to make a fresh application in the Registry with a prayer to Hon''ble the Chief Justice to constitute a special Division Bench so that the order dt. 24.4.1997, passed by the Division Bench may be clarified as to from which date the petitioners are entitled to interest at the rate of 12 per cent.