(1989) 02 P&H CK 0059

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 1099 of 1988

Khushal Singh and ors. APPELLANT

Vs

State of Haryana and ors. RESPONDENT

Date of Decision : 17-02-1989

Acts Referred:

Citation : (1989) PLJ 262 : (1989) 2 RRR 540

Hon'ble Judges : J.V.Gupta, J

Advocate : Shri P.C. Verma, Advocate, R.S. Mittal, Senior Advocate, Advocates for appearing Parties

Judgement

J.V. Gupta, J.

1. This revision petition will also dispose of Civil Revision Petition Nos. 1098, 1100, 1101, 254, 255, 256, 257, 258 and 259 of 1988, as the common question is involved in all these petitions Civil Revision petitions. Civil Revision Petitions Nos. 254 to 259 of 1988 have been filed on behalf of the State of Haryana, whereas the remaining revision petitions have been filed on behalf of the claimants.

2. Admittedly, the possession of the land acquired was taken from the claimants on June 11, 1972, whereas the award was given by the Collector on August 12, 1985. Later, on a reference under section 18 of the Land Acquisition Act (hereinafter called the Act), the amount of compensation was enhanced by the District Judge on November 7, 1986. Execution application was filed on behalf of the claimants for realising the compensation amount as decreed in their favour on a reference under section 18 of the Act. The dispute between the parties was as to whether the claimants are entitled to the interest at the rate of 15 per cent on the entire amount of compensation including 12 per cent interest granted under section 23 of the Act, or only on the market value of the land as determined in the order of the District Judge and whether the claimants are entitled to the interest till the amount was actually paid to them or up to April 13, 1987, when a part of the compensation was deposited, but at the same time

an application was moved by the State Government dated May 17, 1987, that the said deposited amount be not paid to the claimants till further orders.

3. The learned counsel for the claimants submitted that 12 per cent interest allowed under section 23 of the Act, forms part of the compensation and, therefore, the claimants are entitled to 15 per cent interest including the said interest which forms part of the compensation and that the view taken by the executing court in this behalf was wrong and illegal. In support of the contention, the learned counsel relied upon Raghbir Singh v. Union of India. He further submitted that only a part of compensation amount was deposited on April 13, 1987, and the said amount could be adjusted first towards cost, then interest, solatium and the market price and therefore, the interest will not stop on deposit of the said amount until the whole amount is paid to the decreeholders. In support of the this contention, the learned counsel, relied upon Manohar Lal v. State of Haryana, 1986 PLJ 581 : 1986 R.R.R. 5.

4. No meaningful arguments could be raised on behalf of the State to resist the said claim of the petitioners. It was held in Paragraph 19 of the judgment in Raghbir Singh''s case (supra) as follows :

"We cannot hold that 12 per cent forms part of market value. The additional amount of 12% is statutory creation. It is statutory increase, a sort of statutory allowance to the landowner. It is not related to open market. Nor it is benefit arising out of "land" (section 3A). The Additional amount of 12 per cent is certainly a part of the compensation and "the land owner is entitled to interest on this amount also under section 23 of the Act, amended. But it is in no sense a part of market value. Solatium which is awarded on the "market value of the land" under section 23(2) cannot be awarded on the additional amount of 12 per cent per annum. It is an artificial increase in compensation. To boost the compensation the legislature has given an additional amount of 12 per cent. 12 per cent goes to increase the compensation and not the market value. Ram Mehar (sic) in our opinion is a complete answer to the landowner''s claim to solatium of 12 per cent."

5. As regards the adjustment of payment, it was held by this Court in Manohar Lal''s case (supra), that the claimants are entitled to adjustments, payments from time to time first towards costs, then towards interest, then towards solatium and market price. In view of the above said judgments, the claimants are entitled to 15 per cent interest on the total amount of compensation including 12 per cent interest till the amount is paid to them.

6. Consequently civil revision petitions filed by the claimants viz. civil revision petitions Nos. 1098, 1100 and 1103 of 1988 are allowed whereas the remaining civil revision petitions filed on behalf of the State of Haryana are dismissed with costs. The parties are directed to appear before the executing Court on March 3, 1989 for further proceedings.