
(1983) 12 AP CK 0007
In the Andhra Pradesh High Court
Case No : A.A.O. No. 615 of 1977

Mawahedduddin and Others

APPELLANT

Vs

The Collector, Hyderabad

RESPONDENT

Date of Decision : 23-12-1983

Acts Referred:

Land Acquisition Act, 1894 — Section 22(2), 23, 23(1), 23(2)
Requisitioning and Acquisition of Immovable Property Act, 1952 — Section 7, 8

Citation : AIR 1984 AP 217 : (1984) 1 APLJ 97

Hon'ble Judges : K. Ramaswamy, J;A. Raghuvir, J

Bench : Division Bench

Advocate : Mohd. Mokarramuddin, for the Appellant; Govt. Pleader, for Finance and Planning, High Court, Hyderabad, for the Respondent

Judgement

K. Ramaswamy, J.—The appellants are the successors of the landowners. The lands in a total extent of Acs. 50-10 guntas bearing Survey Nos. 352, 353/1, 354/1, 359/1, 355, 357 and 358 situated in Shaikpet village, Urban Taluk, Hyderabad District were initially requisitioned in the year 1963 under the provisions of the Requisitions and Acquisition of Immovable Property Act, 1952, hereinafter called "the Act". Subsequently, a notification acquiring them was published u/s 7 of the Act on March 4, 1970 for public purpose. The competent authority under the Act offered compensation, but the appellants declined to receive it. As a result, they could not reach an agreement with the Government. Therefore, the Government have appointed the Metropolitan Sessions Judge, Metropolitan Area of Hyderabad and Secunderabad to be the Arbitrator u/s 8 of the Act, by notification issued in G. O. Ms. No. 266, Revenue (K) dt. March 14, 1974. He enquired into the claims; the parties have participated and adduced evidence in support of their respective claims. Before the Competent Authority, the claimants laid claim at the rate of Rs. 20/- per square yard for all the lands. The Arbitrator confirmed the order of the competent authority namely Rs. 10/- per square yard to all the lands except to the extent of Ac. 1-02 guntas in Survey No. 352 for which the compensation was determined at Rs. 5/- per square yard

to be the just and reasonable compensation. The appellants also claimed solatium at 15% and also interest at 4% on the amount offered by the Competent Authority. The Arbitrator awarded interest at 4% on unpaid compensation from the date of notification till the date of payment, but however, disallowed solatium on the ground that the Act does not provide for payment of solatium. In this appeal, the appellants restricted their claim to Rs. 15/- per square yard and also reiterated their claim for solatium at the rate of 15%. In this appeal, Sri Mohd. Mokaramuddin, learned counsel for the appellants contends that the appellants had adduced sufficient evidence to establish that the value of the land prevailing in the neighbourhood ranges from Rs. 30/- to Rs. 18/- per square yard and the grant of compensation at Rs. 10/- is very meagre and at least they are entitled to get it at the rate of Rs. 15/- to which they restricted their claim in this appeal. In support thereof, he relied upon the evidence of P. Ws. 1 to 4 and Exs. A-1 to A-7. He also further contended that though there is no specific power under the Act to provide payment of solatium, since it being in the nature of compulsory acquisition and deprivation of the right to possession and enjoyment of the property against the wishes of the owners of the land, they are entitled under law for payment of solatium as part of compensation as enjoined u/s 7 of the Act. In support of this contention, he relied upon the decision of the Division Bench of Punjab and Haryana High Court reported in Gurcharan Singh and Another Vs. Union of India and Another, and a judgment of their Lordships of the Supreme Court reported in P.C. Goswami Vs. Collector of Darrang, . On the other hand, Miss. Lakshmi Devi, learned Government Pleader resisted the claim. She contended that the arbitrator had considered the entire evidence and came to the conclusion that the payment of compensation at Rs. 10/- per square yard to the lands except to the lands in Survey No. 352 at Rs. 5/- per square yard to Ac. 1-02 guntas in Survey No. 352 is just and reasonable. It does not warrant interference in appeal since the facts and circumstances have been fairly considered by the arbitrator in fixing the compensation. She also further contended that there is no express provision under the Act for payment of solatium. The solatium is not part of the value of the land. The Parliament is aware of the existence of Section 23(2) of the Land Acquisition Act of 1894 and the Legislature did not incorporate it as part of this Act for payment of solatium. Therefore, by necessary implication, the Legislature excluded the award of solatium as part of compensation. Therefore, the Arbitrator is justified in refusing to award solatium. However, in support of this contention, there is no decision cited by the learned Government Pleader.

2. Upon these respective contentions, the questions that arise for consideration are : (1) Whether the compensation awarded by the arbitrator is just and reasonable; and (2) Whether the appellants are entitled to solatium at 15% as claimed by them?

3. In order to appreciate these contentions, it is necessary to read the relevant provisions of the Act in this regard. Section 3 of the Act empowers the competent authority, where the authorities are of the opinion that any property needed or

likely to be needed for public purpose, being a purpose of the Union should be requisitioned, to follow the procedure contemplated u/s 4 of the Act. Section 7 gives power to acquire the property requisitioned for the public purpose by publishing in the official gazette a notice to that effect. The property, shall, on and from the day on which the notice is so published, vest absolutely in the Central Government free from all encumbrances and the period of requisition of such property shall end. Section 8 provides the principles and method of determining the compensation which reads as follows:

"Section 8(1) : Where any property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say, -

(a) Where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) Where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as a Judge of a High Court,

(c) and (d)

(e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid, and in making the award, he shall have regard to the circumstances of each case and the provision of sub-sections (2) and (3), so far as they are applicable;

(2) (3) The compensation payable for the acquisition of any property under Section 7 shall be "the price which the requisitioned property would have fetched in open market." If it had remained in the same conditions as it was at the time of requisitioning and been sold on the date of acquisition."

(Since clauses (b) to (d) of sub-section (1) and sub-section (2) are not relevant for the purpose of this case, they are not extracted).

4. A reading of these provisions would show that the arbitrator, after hearing the dispute, makes an award determining the amount of compensation which "appears to him to be just". It also provides that the arbitrator shall have regard to the circumstances of "each case" and the provisions of sub-section (2) and sub-section (3) of S. 8 so far as they are applicable. sub-section (2) (b) directs that the amount of compensation payable for the requisitioning of any property shall be such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters namely :

(i) pecuniary loss due to requisitioning;

(ii) and (iii)

(iv) damages (other than normal wear and tear) caused to the property during the period of requisition including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition."

(Clauses (ii) & (iii) omitted as being not relevant).

5. A conjoint reading of these principles would postulate that where there is an agreement between the parties, as contemplated u/s 8(1)(a), the amount of compensation shall be fixed in terms thereof. Thereby it accords primacy to the contract between willing vendor and vendee, obviating the need to delve into other principles. But in a case where no such agreement was reached, the arbitrator is empowered to determine "the amount of compensation which appears to him to be just." He was also made to have regard to the circumstances in each case, the provisions of sub-sections (2) and (3) as far as they are applicable. Sub-section (3) also specifies the principle namely, it shall be the price which the requisitioned property would have fetched in the open market had it been sold on the date of the acquisition. Thereby, the Act envisages two modes to determine compensation, which appears to him to be just keeping in view the facts and circumstances and the principles set out above. In the latter process, the Legislature directed the arbitrator while determining just compensation to take into account - (1) the price which the property would have fetched in the open market, but for requisition and acquisition; (2) thereby; and (3) damages the owner incurred for restoration to the former position in which the property was existing prior to requisition except the normal wear and tear or damages suffered. Yet no principles as such like one in Section 23(1) of the Land Acquisition Act were laid down. Power was delegated u/s 22(2)(c) of the Act to the Subordinate Legislation to provide the principles to be followed in "determining the amount of compensation". Though the Requisitioning and Acquisition of Immovable Property Rules, 1953, for short "the Rules" have been made, no principles were laid down. Therefore the power of the arbitrator in determining the compensation "to be just" is of wide amplitude and left unguided, yet his exercise of power could, under no circumstances, be either arbitrary or capricious or irrational. The question that emerges thereby is what is the meaning to be ascribed to the epithet "to be just" in awarding compensation. In Chamber's 20th Mid Century dictionary, the word "just" has been defined variedly thus : righteous, upright, fair, according to justice, due, in accordance with facts, well ground, Exact, normal..... Therefore the compensation to be determined must be fair as to what the owner of the Immovable property would legitimately be entitled to be due in accordance with the facts and justice. The meaning of the word "compensation" would also play a vital role in this regard and it would be considered a little altered. It is well known that Section 23(1) of the Land Acquisition Act has provided the principles upon which market value of the land is to be determined, in the case of compulsory acquisition and several components enter into the arena to make up market value of the land. The arbitrator while exercising his power to determine just compensation is entitled to follow the principles laid down in Section 23(1) of the Land Acquisition Act,

1894. It is well to remember that there is no express embargo to take those principles into account.

6. It is now repeatedly held that in determining the compensation, the Collector shall take into account the potential value of the land, the sale deeds of the lands situated in the vicinity and comparable benefits and advantages possessed of, as they furnish a rough and ready guide. They are not always conclusive. Sometimes the rentals prevailing in the neighbourhood capitalising with appropriate multipliers of number of years' interest is also relevant. The price paid within a reasonable time in bona fide transactions of sale of the lands adjacent to the lands acquired possessing similar advantages is one of the safe guide to determine compensation.

7. It must, therefore, be held that the Arbitrator while determining the just compensation, is entitled to take into consideration mutatis mutandis the principles laid down in Section 23(1) of the laaa, 1894, apart from the factors mentioned in sub-sections (2) and (3) of Section 8 of the Act. In this case, the parties have adduced documentary evidence claiming to reflect the value of the properties under acquisitions. The appellants have relied upon Exs. A-1 to A-6, the sale deeds of the lands in the neighbourhood and Ex. A-7 the judgment in O. P. No. 188/68 dt. 15-9-1970. Now, in this Court, additional evidence is received by us of the judgment in A. A. O. No. 357/75 dt. March 29, 1976 of this Court. The counsel took us through the entire evidence. We are satisfied that the learned Arbitrator adopted correct approach in evaluating the evidence. He made personal inspection of the lands under acquisition as well as the lands covered by the documents relied on by either party. Ex. A-3 is the sale deed dt. Jan. 20, 1969. Therein, 360-42 Sq yards were sold for Rs. 15,000/- and it worked out at Rs. 18/- per square yard. Ex. A-5 is also a certified copy of the sale deed dt. May, 30, 1969. Hterein, 300 Sq. yards were sold for Rs. 9,000/- and it worked out at Rs. 30/- per sq. yard. These lands are situated at Mehdipatnam cross-roads, a well-developed built-up area. These lands are situated at K. Ms. From the lands under acquisition. Therefore they do not provide any basis to rely on. They were rightly not relied on. Similarly, the lands covered by sale deeds in Exs. A-1, A-4, A-2 and A-6 are situated in Krantinagar House Building Society, a fully developed area. The price varied between Rs. 16/- to Rs. 21/- per Sq. yard. They were situated at a distance of 2 to 3 K.Ms. In between this area and to the area under acquisition, no house building activities were seen by the Arbitrator. Moreover all the sale transactions pertain to small pieces of lands. They cannot reflect correct value and reasonable basis when large area is under acquisition, as held by their Lordships of the Supreme Court in The Collector of Lakhimpur Vs. Bhuban Chandra Dutta, and Mirza Nausherwan Khan and Another Vs. The Collector (Land Acquisition), Hyderabad, , Similarly in Ex. A. 7 the judgment in O. P. No. 188/68 dated September 14, 1970, the arbitrator awarded a sum of Rs. 15/- per square yard. Those lands are situated in a fully built-in and developed area near Mehdipatnam cross-roads and that, threfore, they do not provide any reasonable basis for awarding just compensation to the lands under acquisition. In A. A. O.

No. 357/75, etc. dt. 29th March 1976, this Court awarded compensation at Rs. 12, Rs. 13/- and Rs. 15/- per square yard. Those lands are nearer to Mehdiapatnam which is fully developed area. We have no material to find the relative situation and therefore, it does not also furnish any conclusive guidance to award compensation at those rates. On the other hand, Ex. B-1 a sale-deed dt. May 30, 1974 executed for an extent of Ac. 16-36 guntas for a total sum of Rs. 4,25,000/- was relied upon by the respondents. That was a sale deed executed by the owner in favour of A. G.'s office Co-operative Society. That land is situated just 100 yards to the south of the lands under acquisition. The sale consideration therein roughly worked out at Rs. 5/- per sq. yard. The competent authority as well as the arbitrator considered this sale deed and held that it reflects the correct value prevailing in the neighbourhood and therefore, relied upon that sale deed and offered to pay at the rate of Rs. 10/- per sq. yard to the entire extent except to the small extent referred to earlier. The lands under acquisition were agricultural lands having potential value of being converted into house sites and to be used as such. They required to be developed and 1/3 of the value thereof is to be spent for development of roads, levelling etc. the arbitrator has considered the entire evidence and the circumstances and has given cogent reasons to award compensation at the rate of Rs. 10/- per sq. yard to all the lands except to Ac. 1-02 guntas situated in Survey No. 352 which is situated at the tail end of the acquired land which does not possess all the advantages which other lands had. We have also independently considered those facts and we fully agree with the fixation of the compensation by the arbitrator. We hold, therefore, that the compensation awarded by the arbitrator and offered by the competent authority is just, fair and reasonable and it does not warrant interference in this appeal.

8. The next question that arises for consideration is whether the appellants are entitled to payment of solatium.

9. Undoubtedly the Act does not provide expressly for payment of solatium, but the question is whether the Legislature, by necessary implication, excluded the application of the principle of solatium in determining just compensation for the land to be acquired. The word "compensation" has been defined in Black's Law Dictionary at page 354 thus:

"Compensation : Indemnification; payment of damages, making amends; giving an equivalent or substitute of equal value; that which is necessary to restore an injured party to his former position; consideration or price of a privilege purchased Equivalent given for property taken or for an injury done to another Recompense in value; recompense or reward for some loss, injury, or service, especially when it is given by statute "Compensation" is used merely for lack of a word more nearly expressing the thought of the law which permits recovery for an imponderable and intangible thing for which there is no money equivalent.

Equivalent in money paid to the owner and occupiers of land taken or injuriously

affected by the exercise of the power of eminent domain; Compensation is amends for something which was taken without the owner's choice, yet without commission of tort.

Compensation is of three kinds - legal or by operation of law, compensation by exception and by reconvention." In Stroud's Judicial Dictionary at page 524 of 4th Edn., Vol. I, it is stated that the compensation must be reasonable and proportionate to the injury caused. The word "Compensation" is the subject of consideration by their Lordships of the Supreme Court in a catena of decisions. It is enough to state that in State of Gujarat Vs. Shantilal Mangaldas and Others, their Lordships of the Supreme Court while considering Art. 31(2) of the Constitution considered the scope and meaning of the concept "Compensation" and held that in ordinary parlance the expression "Compensation" means a thing given to or to make amends for loss, recompense, remunerating or pay; it need not therefore necessarily be in terms of money. The word "Solatium" has been defined in Black's Law Dictionary thus; injury to the feelings." In Stroud's Judicial Dictionary 4th Edn., Vol. 5, at page 2570, the word "Solatium" has been defined as "Solatium is an expression apt to describe an award of some amount to cover inconvenience and, in a proper case, distress caused by compulsory taking. It is quite inapt to describe an amount awarded for probable loss to which the claimant is entitled." Under the exercise of the power of eminent domain, the State is entitled to the exercise of eminent domain only for the public purpose, but it is hedged with the condition that the lands of a private citizen can be acquired or requisitioned on payment of just compensation. On the concept of just compensation, Bernard Schwartz, in his Commentary on the Constitution of United States, Part II (The Rights of Property, 1964 Edition), at para 322, at page 241 states that:

"It is basic, in connection with the two fundamental limitations upon the eminent domain power referred to in the last section - i.e., just compensation and public use or purpose - that the question of whether such limitations have been transgressed in a given case is preeminently a judicial question. This is particularly true of the requirement of public use. In well-nigh countless cases, the courts have articulated the rule that the nature of use, whether the public or private, is ultimately a judicial question."

In para 328 at page 255 the learned author emphasised that the requirement of just compensation is the second essential organic limitation upon the power of eminent domain. He quoted the Justice Story and stated:

"The political ethics reflected in the Fifth Amendment rejects confiscation as a measures of justice Indeed, in a free Government, almost all other rights would become utterly worthless when all property is subject to the will or caprice of the legislature, and the rulers."

At page 256, he states thus:

"Where eminent domain is involved, on the other hand, the individual is

compelled to surrender to the public something beyond his due share for the benefit of the community. In such a case, the fundamental principles of an equal distribution among the citizenry, of the costs of Government has been breached at the expense of the individual whose property has been taken. The compensation requirement is aimed at restoring the equality which has thus been upset. As the Supreme Court has phrased it, the organic guaranty "that private property shall not be taken for a public use without just compensation was designed to bar Government from forcing some people alone to bear public burden which, in all fairness and justice, should be borne as a whole."

At page 257 he stated thus,

"Where for any reason, property has no market, resort must be had to other data to ascertain its value."

10. In a decision reported in *Welungaloo Pvt. Ltd. v. Commonwealth*, (1948) 75 CLR 495 Dixon, J. (as he then was) said that the purpose of compensation under eminent domain is:

"To place in the hands of the owner expropriated the full money equivalent of the thing of which he has been deprived. Compensation, *prima facie* means recompense for loss, and when an owner is to receive compensation for being deprived of real or personal property his pecuniary loss must be ascertained by determining the value to him of the property taken from him. As the object is to find the money equivalent for the loss, or, in other words, the pecuniary value to the owner contained in the asset it cannot be less than the money value that may attach to his property because it has been compulsorily acquired by the Governmental authority for its purposes..... Equally you exclude any diminution of the value arising from the same cause. The hypothesis upon which the inquiry into the value must proceed is that the owner had not been deprived by the exercise of compulsory powers of his ownership and of his consequent rights of disposition existing under the general law at the time of acquisition."

Their Lordships of the Supreme Court in a decision reported in *Union of India (UOI) Vs. Shri Ram Mehar and Others*, while approving the view of the Law Commission for retention of solatium as integral part of compensation for lands acquired, held:

".....As pointed out by Fitzgerald the community has no right to enrich itself by deliberately taking away the property of any of its members in such circumstances without providing adequate compensation for it. This principle has been in force in India ever since the Act of 1870. The Select Committee which examined the Bill of 1893 did not think it necessary to omit the provisions but on the other hand transferred it to S. 23."

11. A review of the above position of law would clearly indicate that when the property of a private citizen is acquired or requisitioned in exercise of the power of eminent domain, then the owner thereof shall amend or recompense the loss

which he has suffered by reason of compulsory acquisition of his property. It is necessary to note at this stage that the Parliament is aware of the distinction between the words "Market value of the land" and "Compensation". In the Act, the Legislature has chosen to use the word "Compensation" instead of "Market value of the land". No doubt, a statutory duty has been cast u/s 23(2) of the Land Acquisition Act 1894 to award solatium at the rate of 15% to the market value, but in the Act, there is no express provision to award solatium. But the question is whether solatium is expressly or by necessary implication excluded for being paid to the claimants or owners of the lands when the Immovable property is sought to be acquired in exercise of the power under the Act. Before embarking upon that enquiry, it is necessary to state that it is well settled that payment of solatium is part of compensation under the provisions of the Land Acquisition Act as held by their Lordships of the Supreme Court in *Union of India (UOI) Vs. Shri Ram Mehar and Others*, . There, their Lordships pointed out the distinction between "compensation" and the "market value" and held that these two are distinct concepts. Their Lordships have held that solatium is part of compensation. A Full Bench of this Court in *Kesireddy Appala Swamy and Others Vs. Special Tahsildar, Land Acquisition Officer, Central Railway, Vijayawada*, laid down the same principle thus:

"An examination of the provisions of the Acquisition Act unfettered by any authority would incline us to the view that while solatium u/s 23(2) may form part of compensation to be awarded by the Collector under Sec. 11, it does not form part of the word award which the Court has to pass u/s 26 though it is required u/s 23(2) to add 15% on the amount of market value awarded by it, which will be in the nature of a direction to the Collector to pay, the amount just in the same way as he is directed to pay interest."

This law was laid down by Chief Justice Jaganmohan Reddy (as he then was) speaking on behalf of the Full Bench while considering the question whether the Court-fee has to be paid on the solatium granted by the Court. The same is the view taken by a Division Bench of this Court in *B. Ravinder Reddy Vs. Special Deputy Collector, Land Acquisition (Industries), Hyderabad*, . That is also the view of the Gujarat High Court in *Patel Maganbhi Chaturbhai and Another Vs. The Collector, Mehsana District*, , of the Karnataka High Court in *G. Venkatesh Vs. Special Land Acquisition Officer, Commissioner of Income Tax B., Bangalore*, and of Punjab High Court in *State of Haryana Vs. Kailashwati and Others*, .

12. Keeping this principle in view, the next question to be considered is whether the Legislature has excluded the application of payment of solatium under the Act. There is no direct decision of the Supreme Court or of this Court on this point. It is also recognised rule for the construction of statutes that, unless the words of statute clearly so demand, a statute is not to be construed so as to take away the property of a subject without compensation (*Vide Attorney-General v. De Keyser's Royal Hotel Ltd.*, 1920 Ac 508.) the power to take compulsorily raised by implication a right to payment. (*Vide Central Control Board (Liquor*

Traffic) v. Cannon Brewery Co. Ltd., 1919 AC 744.) in a decision reported in Inglewood Pulp Co. v. New Brunswick Electric Etc., AIR 1928 PC 287 the question that arose was that in a case where a statute did not provide specifically for payment of interest, then the contention was that by necessary implication, the statute excludes the payment of interest. While considering that question, their Lordships of the Privy Council held thus:

"It is true that the expropriation under the Act in question is not effected for private gain, but for the good of the public at large, but for all this, the owner is deprived of his property in this case as much as in the other and the rule has long been accepted in the interpretation of statutes that they are not to be held to deprive individuals of property without compensation unless the intention to do so is made quite clear. The statute in the present case contains nothing which indicates such an intention. The right to receive interest takes the place of the right to retain possession and is within rule."

Their Lordships of the Supreme Court in Satinder Singh and Others Vs. Amrao Singh and Others, considered the provisions of Requisitioning and Acquisition Act where the statute omitted to pay interest on the land to be acquired. The same contention as herein was raised before the Supreme Court. While considering that question, Gajendragakar, J. (as he then was) speaking on behalf of the Court has held in paragraph 17 at page 915 thus:

"Stated broadly the act of taking possession of Immovable property generally implies an agreement to pay interest on the value of the property and it is on this principle that a claim for interest is made against the State."

At page 916 in the same paragraph, it was held thus:

"The question which we have to consider is whether the application of this rule is intended to be excluded by the Act of 1948, and as we have already observed, the mere fact that Section 5(3) of the Act makes Section 23(1) OF THE Land Acquisition Act of 1894 applicable we cannot reasonably infer that the Act intends to exclude the application of this general rule in the matter of the payment of interest."

The problem could be angulated from yet another perspective. The owner is disinclined to part with possession of his land but for compulsory acquisition for a public purpose. Erle, C. J. in Ricket v. Metropolitan Railway Co., (1865) 34 LJQB 257 held that:

"The company claiming to take lands by compulsory powers, expels the owner from his property and is bound to compensate him for all the loss incurred for the expulsion, and the principle of compensation then is the same as in trespass for expulsion"

Cripps in his "Compensation" 5th Ed. At page 106 states that:

"The loss to an owner whose lands are required or have been taken omitting all

questions of inquiry to adjoining lands, includes not only the actual value of such lands but all damages directly consequent on the taking thereof under the statutory powers."

These might include cost of removal (Section 8(2)(b)(iv) loss of profits (S. 8(2)(b)(i) and other consequential loss (unwillingness to part with). The determination of compensation is based on the principle of price which a willing seller might be expected to realise in an open sale which includes the value for his inclination to sell, and when solatium is being paid under the Land Acquisition Act as a solace at specified rate to make amend for his disinclination to part with possession of the land, there appears to be that the Legislature intended not to exclude solatium as part of compensation. Now their Lordships of the Supreme Court have held in *State of Kerala and Others Vs. T.M. Peter and Others*, and *P.C. Goswami Vs. Collector of Darrang*, that denial of solatium as part of just compensation is obnoxious to equality clause enshrined under Article 14 of the Constitution of India.

13. In *Gurcharan Singh and Another Vs. Union of India and Another*, the Punjab & Haryana High Court has also taken the same view though for different reasons.

14. THE concept of compensation when exposed to the radiation of the above reasoning thus broached, the conclusions that could be reached are that; Solatium is some amount or damages allowed for injury or distress to the feelings of the owner to cover the disinclination caused to the owner due to displacement from his lands. The solatium is part of compensation and the compensation is intended to amend or recompensate the loss occasioned to the owner or injuries effected on the owner by exercise of eminent domain. We therefore, hold that the word "compensation" u/s 8(1)(e) encompasses within its ambit the payment of solatium under the given facts and circumstances of a case. The Arbitrator while awarding just compensation in considering the facts and circumstances is also competent to award solatium at the rate of 15%. The Act by necessary implication did not exclude the application of this principle of payment of solatium. Accordingly, we direct the Competent Authority on the facts of this case to pay solatium on the total amount of compensation at 15% awarded to the appellants as part of the compensation determining by the authorities below and the appellants are also entitled for payment of interest at 4% per annum on solatium as well. Accordingly, the appeal is partly allowed, but in the circumstances, without costs.

15. The learned counsel for the appellants sought for leave to appeal to the Supreme Court. Questions of law are in favour of the appellants and on facts, we agreed with the learned Arbitrator. Thus, in our view, there is no substantial question of law of public importance fit to be decided by the Supreme Court. Hence the leave sought for is rejected.

16. Appeal partly allowed.