

(2001) 09 KAR CK 0042
In the Karnataka High Court
Case No : Writ Petition No. 30980 of 2001

Neelavva B. Soppinamath and Others	APPELLANT
Vs	
State of Karnataka and Another	RESPONDENT

Date of Decision : 03-09-2001

Acts Referred:

Land Acquisition Act, 1894 — Section 28 A, 34

Citation : (2002) 3 KarLJ 99

Hon'ble Judges : P. Vishwanatha Shetty, J

Bench : Single Bench

Advocate : S.A. Kalagi, for the Appellant; N.K. Ramesh, A.G.A., for the Respondent

Final Decision : Allowed

Judgement

P. Vishwanatha Shetty, J.—The petitioners, in this petition, have sought for a direction to the respondents to award them interest on the amount of compensation awarded, from the date of taking possession of their land.

2. The few facts, which are not in dispute may be stated as hereunder:

(a) Pursuant to the application made by the petitioners under Sub-section (1) of Section 28-A of the Land Acquisition Act (hereinafter referred to as "the Act"), the second respondent, by means of his order dated 8th of June, 2001, a copy of which has been pro- produced as Annexure-A, determined the compensation as provided under Sub-section (2) of Section 28-A of the Act. It is the grievance of the petitioners that while determining the compensation under Sub-section (2) of Section 28-A of the Act, the second respondent has not paid interest on the compensation awarded, from the date of taking possession of the land belonging to the petitioners.

3. Sri S.A. Kalagi, learned Counsel appearing for the petitioners, relying upon the decision of this Court in the case of Smt. Sarojini Bai v. Special Land Acquisition Officer¹, submitted that the second respondent should have awarded interest on

the amount of compensation awarded in respect of the land which was acquired, from the date of taking possession of the land.

4. However, Sri Mahesh, learned Government Pleader appearing for the respondents, submitted that if the petitioners are aggrieved by the order Annexure-A made by the second respondent, the remedy open to them is to move the Civil Court seeking for reference as provided under Sub-section (3) of Section 18 of the Act.

5. Having heard the learned Counsels, appearing for the parties, I am of the view that as rightly pointed out by the learned Counsel for the petitioners, the question raised in this petition is fully covered by the decision of this Court in the case of Sarojini Bai, supra. In the said decision, this Court, at paragraphs 4 and 5 of the judgment, has observed as follows:

"The matter is covered by the decision of the Supreme Court in Union of India and another Vs. Pradeep Kumari and others, . The Supreme Court held that in regard to re-determination of the amount of compensation u/s 28-A, Section 34 of the Land Acquisition Act, 1894 would be applicable and therefore, it is permissible to the Land Acquisition Officer to award interest u/s 34 on the additional amount of compensation awarded by him. It is seen that the respondent has not followed the said decision. There is no justification in restricting the interest only from the date of application and not from the date of taking possession to which petitioners will be entitled, u/s 34 of the Act.

In view of the above, these petitions are allowed and the respondent is directed to consider and grant interest from the date of taking possession to the date of application, in addition to what has already been awarded, in accordance with Section 34 of the Land Acquisition Act read with decision of the Supreme Court in Pradeep Kumari's case, supra. Compliance within three months from the date of receipt of this order".

The principle laid down in the case of Sarojini Bai, supra, makes it clear that the claimants are entitled for payment of interest on the amount of compensation from the date of taking possession of the land.

6. In the light of what is stated above, this petition is allowed and the second respondent is directed to grant interest on the amount of compensation awarded in respect of the land belonging to the petitioners, which were acquired from the date of taking possession of the land. The second respondent shall comply with this order within three months from the date of receipt of a copy of this order.

7. In terms stated above, this petition is allowed and disposed off. No costs.

8. Sri H.B. Mahesh, learned Government Pleader, is given four weeks" time to file memo of appearance.