
(2002) 11 DEL CK 0135

In the Delhi High Court

Case No : C.M. 1857 of 2002 in R.F.A. No. 108 of 1997

Om Parkash

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 22-11-2002

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 152
Land Acquisition Act, 1894 — Section 23(1A)

Citation : (2003) 104 DLT 613

Hon'ble Judges : Devinder Gupta, Acting C.J.; Sanjay Kishan Kaul, J

Bench : Division Bench

Advocate : Om Prakash, for the Appellant; Sanjay Poddar, for the Respondent

Final Decision : Allowed

Judgement

1. The prayer made in the application is to clarify/modify the judgment dated 24.8.2001 and to hold the appellants also entitled to interest on the additional amount payable u/s 23(1A) of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) along with interest on solarium, in view of the fact that the Supreme Court has answered the reference, which was made to a Larger Bench in *Sunder Vs. Union of India*, .

2. The appellants in the judgment dated 24.8.2001 were held entitled to the additional amount u/s 23(1A) of the Act. The Supreme Court had not answered the reference which was made as regards interest on solarium and additional amount. Accordingly in the judgment by the Supreme Court it was provided that as and when the reference is decided and interest is held payable on solarium the appellants will also be paid interest. Learned Counsel for the appellants contends that since the appellants were also held entitled to the additional amount, Therefore, the judgment needs clarification/modification that interest will also be payable on the additional amount.

3. Learned Counsel for the respondent by placing reliance upon decision of

Supreme Court in Dwaraka Das Vs. State of Madhya Pradesh and Another, contends that not making a provision in the judgment of payment of interest on the additional amount was not an accidental omission and Therefore clarification/ modification as sought cannot be made in the application filed u/s 152 of the CPC.

4. We have gone through the decision of the Supreme Court in Dwarka Dass's case (supra), and duly considered the submission made by learned Counsel for the respondent. The same cannot be accepted since ratio of the decision of Supreme Court cannot be made applicable in the instant case inasmuch as on land being acquired by the Government for public purpose the interested persons have to be paid such compensation and other benefits as are payable under the Act. Payment of solarium and additional amount including interest thereon is the statutory liability of the State. The claimants were held entitled to solarium and additional amount also. Needless to add that in the reference which had been made to a Larger Bench by the Supreme Court, one of the questions was about payment of interest on additional amount, in addition to interest on solarium. In case the appellant/ applicants in the judgment of which modification is sought were held entitled to the additional amount, needless to add that they will also be statutorily entitled to interest on the additional amount.

5. We may make a reference to a decision of the Supreme Court in AIR 1999 SC 4915 wherein such a grievance of non-grant of interest either on solarium or additional amount was held to be a matter to be considered and decided by the same Court which decided the appeal.

6. Consequently the application is allowed. It is clarified that the appellants will also be paid interest on the additional amount in addition to interest on solarium in accordance with the decision of Supreme Court in Sunder Vs. Union of India, . Necessary corrections be made and the decree sheet be accordingly amended.