

(2020) 04 DEL CK 0063

In the Delhi High Court

Case No : Civil Miscellaneous (Main) No. 205 Of 2018

Om Prakash & Anr

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 27-04-2020

Acts Referred:

Constitution Of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4

Citation : (2020) 268 DLT 464

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : S. K. Rout, Aman Mehrotra, Sanjay Kumar Pathak, Sunil Kumar Jha, M.S. Akhtar, Himanshu Bajaj

Final Decision : Allowed

Judgement

Prathiba M. Singh, J

1. The present petition has been filed challenging the impugned orders dated 31st May, 2016 and 21st November, 2017 by which the Id. ADJ while

dealing with execution proceedings has rejected the prayer for grant of interest which was deducted while disbursing compensation to the Petitioners.

The undisputed facts are that the land of the Petitioners was acquired vide a notification under Section 4 of the Land Acquisition Act, 1894 issued on

13th December, 2000. The Collector, vide award No. 28/2002-03 fixed the market value of the land at Rs. 13,82,000/- per acre.

2. The said rate was revised by the Id. ADJ by giving an enhancement of Rs.1,18,000/- per acre vide order dated 30th November, 2009 .

3. Vide order dated 13th April, 2012, a Id. Single Judge of this Court, further enhanced the amount payable by Rs.1,50,000/- per acre. The market

value, thus, came to a sum of Rs.16,50,000/- per acre. However, considering the fact that the Petitioners had delayed in filing of the appeal before this

Court, interest for the period of delay of 727 days was not granted. The said order reads as under:

‘Delay of 727 days’ in re-filing the accompanying appeal is sought to be condoned by this application, which is supported by affidavit of learned counsel for the appellant.

Upon Notice, Mr. Sanjay Kumar Pathak and Mr, Arun Birbal, Advocates for respondents No. 1 and 2 respectively, state that only

opposition to this application is that for the period of delay, the appellants ought not be granted interest on the compensation amount in the

event of their succeeding in the appeal.

Since the reasons disclosed in Paragraphs No. 3 to 6 of the application does not display gross negligence, therefore, this application is

allowed and the delay of 727 days’ in re-filing the accompanying appeal is condoned, while making it clear that for the period of delay, the

appellants shall not be granted interest in the event of their succeeding in the appeal.

With aforesaid observations, this application stands disposed of.

LA.APP. 118/2012

The instant appeal relates to Village Bijwasan, where vide Notification under Section 4 of the Land Acquisition Act, 1894 of 13th December,

2000, the land of the appellant stood acquired Learned counsel for the appellants fairly concedes that the fate of this appeal is governed by

the decision of this Court in LA.APP No. 1195/2008 ‘Ranbir Sharma Vs. Union of India and Anr.’ rendered on 6th January, 2012,

wherein compensation amount in respect of lands acquired in Village Bijwasan been enhanced to Rs. 16,50,000/- per acre for the Category

‘A’ lands and to Rs. 14,69,600/- per acre in respect of Category ‘B’ lands. This is not disputed by learned counsel for the respondents.

In the light of above, this appeal is allowed in terms of decision of this Court in Ranbir Sharma (Supra) with statutory benefits and

proportionate costs, while declining the interest for the period of delay.

This appeal stands disposed of in aforesaid terms.

4. The Supreme Court, in a bunch of petitions titled Impulse India P. Ltd. vs Union of India & Anr. Civil Appeal No. 2091/2014 enhanced the

compensation further. The total compensation fixed by the Supreme Court was Rs.21,00,000/- per acre. The operative portion of the order dated 13th

February, 2014 of the Supreme Court reads as under:

“13. We have carefully perused the award(s) passed by the Land Acquisition Officer/Collector, the Reference Court as well as the High

Court. In our view, the compensation so awarded by the authorities as well as the High Court is on a lesser side. Therefore, keeping in view

the peculiar facts and circumstances of the case, and also other factors, we intend to increase the compensation so awarded by the High

Court for Block A lands from Rs.16.50/- lacs to Rs.21/- lacs per acre and from Rs.14.60/- lacs to Rs.19/- lacs per acre for Block

B lands.

”

16. The Respondents-authorities shall quantify the amounts payable to the appellants and deposit the same before the Reference

Court/Executing Court as early as possible, at any rate, within four months from the date of receipt of a copy of this Court’s order.”

5. In the meantime, in execution proceedings, compensation was disbursed to the Petitioners after deducting a sum of Rs.5,98,286/-. The amount was

calculated on the basis of the compensation fixed by the Supreme Court, however, the interest for 727 days was deducted and a certificate of refund

was issued to the Land Acquisition Collector.

6. The Petitioners then filed an application seeking clarification and payment of the withheld sum to the Petitioners. The said application was decided

on 31st May, 2016. The Id. ADJ came to the conclusion that the Supreme Court had merely enhanced the market value without giving any further

benefit to the Petitioners, and thus, the Petitioners are not entitled to any interest for the period of delay. The relevant portion of the said order dated

31st May 2016 reads as under:

“I have considered the submissions made on behalf both the parties and have perused the record.

The DHs had filed the execution petition in respect of the judgment dated 4.12.2014 of the Supreme Court passed In SLP No 6954-71 of

2012. The Supreme Court had allowed the bunch of appeals thereby enhancing the compensation in terms of its earlier order passed in

appeal No.2091/2014. It has further been ordered that the appellants were entitled to all the statutory benefits provided under the Land

Acquisition Act.

However, the High Court, in its judgment, against which aforesaid appeal has been filed in the Supreme Court, had directed that the DH

shall not be entitled to interest for the period of delay in filing the appeal i.e. 727 days. The DHs, though challenged the said judgment of

the High Court before the Supreme Court but only regarding the fixing of market value of the land by the High Court as on date of issuance

of the notification u/s 4 of the Land Acquisition Act. The DHs did not challenge the directions of the High Court for non payment of interest

for the period of delay.

The Supreme Court also has not expressed any opinion at all on the aforesaid directions given by the High Court. It has only enhanced the

market value of the land in question without making any further observations on the other directions issued by the High Court.

In view thereof, I am of the opinion that the Decree holders are not entitled to any interest for the period of 727 days on the enhanced

compensation even as per the judgment of the Supreme Court as they never assailed that part of the judgment of the High Court.

Therefore, I do not find any merit in the application. Same is hereby dismissed.â??

7. In the meantime, in another petition arising out of the same bunch of matters, viz., Jagat Singh (Deceased) Thr Lrs & Ors v. Union of India & Anr.

CM (M) 653/2015 a Id. Single Judge of this Court directed grant of partial interest. The said order dated 13th July, 2017 reads as under:

â??9. This Court cannot speculate, whether the petitioners, if LA Appeal No. 137/2012 had been dismissed as barred by time and not

admitted, would have gone to the Supreme Court or not and whether the Supreme Court in such a case would have condoned the delay in

filing the LA Appeal No. 137/2012 and if so, on what terms. All that can be observed is that a perusal of the order dated 13th February,

2014 supra of the Supreme Court shows that the SLP/appeal preferred by the

petitioners was considered alongwith a large number of other appeals and vide common order in all the appeals, concerning not only the land of others, situated in the village, in which the land of the petitioners is situated but also with respect to land in other adjoining villages, was enhanced as aforesaid. It is thus well nigh possible that even if the delay, in the petitioners filing LA. Appeal No. 137/2012 had not been condoned, the petitioners, if had approached the Supreme Court thereagainst, may have had the benefit of the enhancement granted by the Supreme Court.

10. Moreover, not only does a perusal of the order dated 30th April, 2012 set out hereinabove so shows but even otherwise in law this court could not have, as a condition for condonation of delay in preferring LA Appeal No. 137/2012, deprived the petitioners of the interest on enhancement in compensation to be granted by the Supreme Court against the order of this Court.

11. I am thus of the view that while the petitioners are not entitled to interest for the period aforesaid, on the enhancement granted by this court but are entitled to the interest for the said period on the enhancement granted by the Supreme Court over and above the enhancement granted by this Court.

12. The counsel for the respondent No.2 DDA has also contended that the view taken by the Additional District Judge in the impugned order is a plausible view and ought not to be interfered under Article 227.

13. I am unable to agree. The view taken by the Additional District Judge in the impugned order is to the monetary prejudice of the petitioners for compensation of their land and once this court finds that the view taken is not borne out from the order of this Court, it would be a perverse view and such perversity cannot be permitted to remain.â??

8. Thus, the Id. Single Judge did not grant interest on the enhancement granted by this Court, but interest was granted on the difference in the enhanced amount, between what was granted by the High Court and the amount fixed by the Supreme Court.

9. The Petitioners, on the strength of this order moved another application seeking payment of the interest. The same was allowed on 7th November, 2017 in the following terms:

A careful perusal of record revealed that as per the report of District Nazir in the main execution petition, referred to above, an amount of Rs.57,02,522/- was payable to the decree holders and the compensation was duly received through warrants of attachment from the account of the Land Acquisition Collector vide Cheque dated 06.06.2015 and the execution petition was ordered to be consigned to record room vide order dated 17.08.2015 and that on 11.09.2015 the repayment vouchers were delivered to the decree holders, however, as per the report of Nazir there was an excess amount of Rs.5,98,286/- which was ordered to be returned to the LAC concerned. Thereafter the decree holders have preferred the application in question dated 04.12.2015 and the then learned predecessor was pleased to list the matter on 08.01.2016 for clarifications and on the said date, the matter could not be heard and file was ordered to be consigned to record room. It is also clarified and admitted case of the parties that decree holders have received a sum of Rs.51,04,235.04 including TDS on the basis of a report of Nazir wherein interest @ 15% per annum was deducted for 727 days of late filing even without the orders of the court. Further, in the judgment of Hon'ble Apex Court in Impulse India Pvt Ltd & Ors vs Union of India & ors wherein the applicants were held entitled for all the statutory benefits provided under the provisions of Land Acquisition Act. I have also gone through the order of Hon'ble High Court in Jagat Singh's case (supra). The said order has been passed on the same issue and this court can follow the said order of the superior court. Hence, following the aforesaid order of the Hon'ble High Court as a landmark on the issue involved qua interest, the application dated 04.12.2015 filed on behalf of the applicants/decreed holders is liable to be allowed. It is ordered accordingly. The amount deducted towards 727 days of interest was Rs.5,98,286/- in the main execution petition. However, request of learned counsel for the applicants for grant of interest on the said amount is not acceptable. Same stands rejected. In view of the aforesaid discussions, the present application stands disposed off accordingly. A copy of this order be placed on the record of main execution petition also.

10. The Union of India moved an application seeking recall of this order on the ground that the Petitioners were guilty of concealment, as the Court had already rejected the application of the Petitioners vide order dated 31st May, 2016. The Id. ADJ held in the impugned order, that in view of the order dated 31st May, 2016 which had rejected the application seeking interest, the subsequent order dated 7th November, 2017, in the same application, awarding interest in favour of the Petitioners is a complete nullity. The factum of the said application having already been disposed of having been concealed by the petitioner, the Id. ADJ imposed costs upon the Petitioners.

11. Thus, the Petitioners now impugn both the order dated 31st May, 2016 as also the order dated 21st November, 2017 whereby their prayer for interest has been rejected by the Id. ADJ. Id. counsel for the Petitioners submits that the concealment was not deliberate. It is urged that similarly placed parties cannot be treated differently. Since the litigant is a bona fide litigant, interest is liable to be granted in favour of the Petitioners.

12. On the other hand, Id. counsel for the Union of India vehemently contends that no benefit can be extended to the Petitioners, who have been guilty of misleading the Id. ADJ. Enormous emphasis is placed on the fact that the Id. counsels appearing before this Court were the same counsels all along, even before the Id. ADJ and they were well aware of the earlier rejection of the application for payment of interest but chose to conceal the same resulting in the order dated 7th November, 2017 by which interest came to be granted. The conduct of the Petitioners was totally dishonest and, thus, no discretion ought to be exercised in favour of the said Petitioners. Reliance is placed upon the judgment of the Supreme Court in *Ramjas Foundation and Another v. Union of India and Others* (2010)14 SCC 38.

13. The Court has considered the submissions of the respective parties. The fact that no interest was payable for the period of delay of 727 days on the enhanced compensation awarded on 13th April, 2012 by this Court, is quite clear. The said order allowed the appeal of the Petitioners after following an earlier appeal relating to the same land. The Id. Single Judge made it clear that the interest for the period of delay of 727 days is declined.

Thus, as on the date of 13th April, 2012, the Petitioners were not entitled to any interest on the compensation as enhanced by this Court.

14. The observation of the Supreme Court in paragraph 14 of the order of 13 th February, 2014 is as under:

“This compensation so awarded by us is common to all the lands in Bharthal, Bijwasan, Pochanpur and Dhul Saras villages Needless to

say that the appellants are entitled for all the statutory benefits provided under the provisions of the land Acquisition Act, 1894”

The Supreme Court was dealing with a large bunch of land acquisition appeals arising out of the same land and the Court did not go into any specifics

in respect of any of the Petitioners, including the present Petitioners. The observation that the Petitioners are entitled to the statutory benefits under

the provisions of the Land Acquisition Act, 1894 cannot be read to mean that the specific order declining interest for the period of delay, in the case of

the Petitioners, also stood set aside. In fact, there is no order to this effect by the Supreme Court.

15. The Petitioners’ case is now, therefore, dependant on the order in Jagat Singh(supra) dated 13th July, 2017 passed by this Court. It is not

disputed that the Petitioners are similarly placed to the Petitioners in Jagat Singh(supra). The Id. Single Judge of this Court, after considering the order

of the Supreme Court dated 13th February, 2014, has granted partial interest on the enhanced compensation. This being the view of the Id. Single

Judge of this Court, the Petitioners’ case cannot be distinguished from the same. The Petitioners would be entitled to relief as granted in Jagat

Singh (supra).

16. However, the Petitioners’ conduct has not been above board. They have made deliberate attempts to mislead the Id. ADJ. They did conceal

the order dated 31st May, 2016 from the Id. ADJ when the application for award of interest was taken by the Id. ADJ. However, the blame for

concealment of the earlier order dated 31st May, 2016 does not lie only on the shoulder of the Petitioners. The Court also had a duty to peruse the

previous order dated 31st May, 2016 .

17. Under these overall circumstances and facts, it is directed as under:

i) The Petitioners shall be entitled to interest in terms of the order dated 13th July, 2017 passed in Jagat Singh(supra) which awarded

interest on the difference in the compensation as fixed by the High Court and that fixed by the Supreme Court. Thus, it is held that the

Petitioners are not entitled to interest for the 727 day period on the enhancement granted by this Court on 13th April, 2012. However, the

Petitioners would be entitled to interest for the said period on the enhancement granted by the Supreme Court over and above the

enhancement granted by this Court i.e., the difference between Rs.16,50,000/- and Rs.21,00,000/-. Thus, interest is granted on the sum of

Rs. 4.5 lakhs for the 727 days period.

ii) In view of the conduct of the Petitioners, a sum of Rs.1,00,000/- is imposed as costs payable to the LAC, which would be deducted from

the amount payable to the Petitioners in terms of this order.

18. The amount may now be computed and after deducting the sum of Rs. 1,00,000/- the amount be paid to the Petitioners within 8 weeks after lifting

of lockdown. The petition is allowed in these terms.