

(2007) 01 AHC CK 0174
In the Allahabad High Court

Ralua, Bhanwar Singh and Atar Singh	APPELLANT
Vs	
U.P. Avas Evam Vikas Parishad, State of U.P. and Special Land Acquisition Officer, U.P. Avas Evam Vikas Parishad	RESPONDENT

Date of Decision : 03-01-2007

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 23, 28, 4

Citation : AIR 2007 All 104

Hon'ble Judges : Umeshwar Pandey, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Umeshwar Pandey, J.—Heard Sri Madhav Jain learned Counsel for the revisionist.

2. By the Impugned order dated 4.10.2006, the court below has allowed the objections of the opposite party No. 1 holding that the additional amount of compensation which was payable u/s 23(1-A) of the Land Acquisition Act, 1984 (hereinafter referred to as the), Act does not fetch interest as provided u/s 28 of the Act.

3. Sri Jain counsel for the revisionist submits that since the amount awarded u/s 23(1-A) of the Act is also part of the compensation, it would in all fairness fetch the interest as provided u/s 28 of the Act and the order of the court below not permitting such interest on that amount, is wholly misconceived and is against the law.

4. I do not agree with the aforesaid submissions of Sri Jain counsel for the applicant.

5. The two relevant provisions of Sections 23(1-A) and 28 of the Act are quoted below:

Section 23(1-A)

(1-A) In addition to the market value of the land as above provided the court

shall in every case award as amount calculated at the rate of twelve per cent per annum on such market value for the period commencing on and from the date of the publication of the notification u/s 4, Sub-section (1) In respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation. In computing the period referred to in this Sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or Injunction by the order of any court shall be excluded.

Section 28 Collector may be directed to pay Interest on excess compensation- If the sum which, in the opinion of the court the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the court may direct that the collector shall pay Interest on such excess at the rate of (nine per cent) per annum from the date of on which he took possession of the land to the date of payment of such excess into court. 2. Provided that the award of the court may also direct that where such excess or any part thereof is paid into court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into court before the date of such expiry.

6. A perusal of Section 23(1-A) itself makes it obvious that It provides for award of some additional amount of compensation by the court over and above the market value of the land acquired. The additional amount is awarded at the rate of 12% of such market value for the period commencing on and from the date of the publication of notification u/s 4 Sub-section (1), In respect of such land to the date of award of the Collector or the date of taking possession of the land, whichever is earlier. But the provisions of Section 28 provides for award of interest on excess compensation over and above the amount which the Collector did award as compensation, from the date on which the Collector took possession of the land till the date of payment of such excess amount into court. The provisions for payment of interest u/s 28 of the Act is therefore, only on the excess amount of compensation fixed by the court over and above the amount fixed by the Collector. Obviously the excess amount of compensation is always given by the court only after the date of award. Therefore, when the additional amount of compensation as awarded u/s 23(1-A) is permissible only till the date of award or till the date of possession, it shall not attract the application of Section 28 of the Act at all. Section 28 applies only to the amount which is given by the court in excess of the Collector's award and this amount falls due only after the court fixes it at the enhanced value of the land in a reference received in the court u/s 18 of the Act. In this view of the matter, the additional amount of award or compensation permissible u/s 23(1-A) of the Act is the amount which has no relation with Section 28 of the Act and obviously no interest under the

provisions of Section 28 of the Act can be awarded. Therefore, the court below has very correctly found that the additional amount will not fetch interest u/s 28 of the Act. The findings thus recorded on the objections raised by the opposite party, U.P. Avas Evam Vikas Parishad, cannot be interfered with in the revisional jurisdiction of this Court. The order is perfectly proper, legal and justified.

7. The present revision does not have any force and is hereby dismissed.