

(1962) 02 CAL CK 0018
In the Calcutta High Court
Case No : Nos. 3367 and 3368 of 1960

Roufannessa Bibi

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 16-02-1962

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : 66 CWN 412

Hon'ble Judges : P.N. Mookerjee, J;Laik, J

Bench : Division Bench

Advocate : Chittatosh Mukherjee, for the Appellant;N.C. Chakraborty and Susil Kumar Biswas, for the Respondent

Final Decision : Allowed

Judgement

P.N. Mookerjee, J.—In these two cases the only point that arises is as to whether the learned Arbitrator was justified in awarding interest, as he did, simply on the difference between the total amount, awarded by him as compensation for the acquired property and the amount, withdrawn by the referring claimant, from the date of taking possession by the Government till only the date of the Collector's offer or award.

2. As held by us in earlier cases, the rate of interest, awarded by the learned Arbitrator, should be accepted but it should be made payable on the entire amount, awarded by him as compensation for the acquired property, from the date of the Collector's taking of possession of the same, namely, April 12, 1946, and the date of withdrawal, if any, of any part of the said compensation by the referring claimant - here March 13, 1954, the date of withdrawal of 80 p.c. of the Collector's award - and further interest at the same rate should be directed on the balance of the final award by the Arbitrator until payment or deposit of the same by the Government. The learned Arbitrator's award of interest should be modified accordingly and interest should be calculated in the light of the above direction and the Rules would succeed to that extent.

It is only necessary to add that, on behalf of the State, a preliminary objection was taken to the maintainability of the instant Rules under Article 227 of the Constitution and it was contended that, in both these cases, where the amount of compensation, awarded finally by the Arbitrator, exceeded Rs.5000/-, an appeal lay to this Court u/s 19(1)(f) of the Defence of India Act - the bar (exception) under the relative and relevant Rule 19 in its second proviso not applying, - and in such circumstances no revision application under Article 227 of the Constitution would be maintainable. It is enough, for our present purpose, to refer to the decision of this Court, reported in Manmatha Nath Biswas v. Emperor, (1) 37 CWN 201, to overrule this preliminary objection.

3. We may also state here that the learned Government pleader's argument that no interest should have been awarded at all in the instant cases on the authority of the decision of the Supreme Court, reported in Mahabir Prashad Rungta Vs. Durga Datt, , cannot be accepted as, even upon that decision, in the light of the earlier decision of the Supreme Court, reported in Satinder Singh and Others Vs. Amrao Singh and Others, , and the series of decisions, cited therein, interest would clearly be payable in the instant cases.

4. We, accordingly, make these Rules absolute to this extent that the award of the learned Arbitrator on the head of interest is modified on the lines, indicated hereinbefore. There will be no order for costs in any of these Rules.

Laik, J.

5. I agree.