

(2003) 05 P&H CK 0111
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 30 of 1994

Sheo Ram Aggarwal and others

APPELLANT

Vs

Haryana State through Collector, Hisar and another

RESPONDENT

Date of Decision : 14-05-2003

Acts Referred:

Citation : (2003) 4 RCR(Civil) 280

Hon'ble Judges : M.M.Kumar, J

Advocate : Mr. Jaswant Jain, Advocate. Mr. N.K. Joshi, AAG, Haryana.,
Advocates for appearing Parties

Judgement

M.M. Kumar, J.—This petition filed under Section 115 of the Code of Civil Procedure, 1908 is directed against the order dated 9.10.1993 passed by the Additional District Judge, Hisar. The learned Additional District Judge has declined the objection of the decree holderpetitioners claiming interest on the additional amount from the date of possession of the land acquired. It is appropriate to mention that notification under Section 4 for acquisition of the land of the decreeholders was published on 1.10.1980 and the award was passed on 31.3.1986. On reference made under Section 18, the Additional District Judge had enhanced the amount of compensation vide his order dated 9.10.1993. The interest on the additional amount was also required to be paid as provided by Section 23(1)(A) of the Act. In order to obtain the relief of interest on additional amount from the date of possession, the decreeholders made a claim, which has been declined by the Additional District Judge by recording the following order :

"4. I have given my thoughtful considerations to the submissions putforth on behalf of the parties. Admittedly notification u/s 4 of the Act was issued in the instant case on 1.10.1980 and award by the Collector was passed on 31.3.1986 and as such before proceeding further a reference of Section 23(1)(A) of the Act is a must which reads as under :

"In addition to the marketvalue of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve percent per annum

on such market value for the period commencing on and from the date of the publication of the notification under Section 4 subsection (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."

5. A perusal of the provisions of the above referred to Section shows that D.Hs were entitled to an additional amount on the market value of the land at the rate of 12% per annum from 1.10.1980 i.e. the date of notification u/s 4 of the Act to 31.3.1986 the date of award passed by the Collector. In this regard my learned Predecessor Shri R.C. Kathuria the then Additional District Judge, Hisar had also passed an order dated 20.11.1992 wherein judgmentdebtor was directed to calculate interest amount on the additional amount which has now been worked out as Rs. 54,882.83. Admittedly this amount was also deposited on 19.2.1990 after making calculation as given u/s 23(1)(A) of the Act. The interest on this amount as permissible under the Act is worked out as Rs. 28720.20 on this aforesaid amount upto 18.2.1990. Admittedly this interest has not been deposited so far. Hence to my mind the decreeholders are further entitled to an interest as permissible under the Act on this amount of Rs. 28270.20 from 28.2.1990 to the date of actual realisation. Further, in view of the provisions of Section 23(1)(A). I do not find D.Hs entitled for interest of additional amount as permissible under section 23(1)(A) from the month of June, 1970 inasmuch as notification in the instant case u/s 4 of the Act was issued only on 1.10.1980 and the award of the Collector was passed on 31.3.1986 and as such making of the payment from date of taking of the possession in the month of June, 1970 being not covered u/s 23(1)(A) of the Act is declined."

2. Mr. Jaswant Jain, learned counsel has pointed out that a bare perusal of Section 23(1)(A) would show that interest on additional amount @ 12% p.a. has to be paid either from the date of the notification under Section 4 or from the date of taking of possession of the land, whichever is earlier. Learned counsel has argued that there is no dispute that in the instant case possession was taken in June 1970. Therefore, the order suffers from patent illegality.

3. Mr. N.K. Joshi, learned State counsel was not able to dispute the legal and factual position.

4. After hearing the learned counsel, I am of the considered opinion that the order dated 9.10.1993 suffered from violation of Section 23(1)(A) of the Act (supra) because it is expressly provided that interest on the additional amount @ 12% p.a. has to be paid from the date of taking possession of the land or from the notification under Section 4, whichever is earlier. In the instant case, the possession of the land by the petitioner was taken in June 1970 and interest has to be paid from the date. Therefore, the impugned order dated 9.10.1993 is set aside and a direction is issued to the executing court to calculate the interest on additional amount from June 1970. The needful shall be done within a period of two months.

Revision allowed.