

(2011) 11 DEL CK 0005
In the Delhi High Court
Case No : CM (M) No. 1409 of 2010

Shri Balwan Singh (Deceased) through Lrs.	APPELLANT
Vs	
Union of India and Another	RESPONDENT

Date of Decision : 23-11-2011

Acts Referred:

Constitution of India, 1950 — Article 141, 142
Land Acquisition Act, 1894 — Section 18

Citation : (2011) 11 DEL CK 0005

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : I.S. Dahiya and Mr. Sunil Dahiya, for the Appellant; Sanjay Poddar with Mr. Sanjay Kumar Pathak, Mohitrao Jadhav and Ms. Navlin Swain, for the Respondent

Final Decision : Dismissed

Judgement

Indermeet Kaur, J.—The issue to be decided is as to whether the interest on solatium under the Land Acquisition Act, 1894 (hereinafter referred to as the "LAC Act") is payable in the instant case.

2. Arguments addressed by both the parties have been appreciated.

3. The order impugned is the order dated 04.8.2010 wherein certain facts are undisputed. The land was acquired pursuant to which an Award was passed by the Land Acquisition Collector (LAC). Dissatisfied with the assessment made by the LAC; reference petition was filed u/s 18 of the LAC Act which was disposed of on 18.01.2001. Decree was admittedly silent about interest on solatium or any additional amount. There was no express rejection either.

4. The judgment of Gurpreet Singh Vs. Union of India (UOI), is relevant in this context and reads as follows:

One other question also was sought to be raised and answered by this Bench though not referred to it. Considering that the question arises in various cases

pending in Courts all over the country, we permitted counsel to address us on that question. That question is whether in the light of the decision in *Sunder* (supra), the awardee/decreed holder would be entitled to claim interest on solatium in execution though it is not specifically granted by the decree. It is well settled that an execution court cannot go behind the decree. If, therefore, the claim for interest on solatium had been made and the same has been negatived either expressly or by necessary implication by the judgment or decree of the reference court or of the appellate court, the execution court will have necessarily to reject the claim for interest on solatium based on *Sunder* (supra) on the ground that the execution court cannot go behind the decree. But if the award of the reference court or that of the appellate court does not specifically refer to the question of interest on solatium or in cases where claim had not been made and rejected either expressly or impliedly by the reference court or the appellate court, and merely interest on compensation is awarded, then it would be open to the execution court to apply the ratio of *Sunder* (supra) and say that the compensation awarded includes solatium and in such an event interest on the amount could be directed to be deposited in execution. Otherwise, not. We also clarify that such interest on solatium can be claimed only in pending executions and not in closed executions and the execution court will be entitled to permit its recovery from the date of the judgment in *Sunder* (September 19, 2001) and not for any prior period. We also clarify that this will not entail any re-appropriation or fresh appropriation by the decree-holder.

This we have indicated by way of clarification also in exercise of our power under Articles 141 and 142 of the Constitution of India with a view to avoid multiplicity of litigation on this question.

5. This judgment clearly states that if the claim for interest on solatium has been made and the same has been negatived either expressly or by an necessary implication, the executing court will have to necessarily reject this claim for interest on solatium based on the judgment of *Sunder Vs. Union of India*, ; on the ground that the executing court cannot go behind the decree; however, if the award of the reference court or that of the appellate court does not specifically refer to the question of interest on solatium or in case where claim has not been rejected either expressly or impliedly by the reference court or the appellate court and merely interest on compensation is awarded then it will be open to the executing court to apply the ratio of *Sunder* (supra) as compensation awarded includes solatium and in such an event interest on the amount could be directed to be paid; further this interest would be payable only from the date of the judgment of *Sunder* which was delivered on 19.9.2001. Impugned order has correctly noted this; it suffers from no infirmity. Dismissed.