

(2010) 01 DEL CK 0006

In the Delhi High Court

Case No : CM (M) 1069 of 2009 and CM No. 14013 of 2009

Shri Ranbir Singh

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 21-01-2010

Acts Referred:

Citation : (2010) 01 DEL CK 0006

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : I.S. Dahiya, for the Appellant; Sangeeta Chandra, for R-1 and Sanjay Poddar and Ramesh Ray for R-2, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—This petition under Article 227 of the Constitution of India has been preferred against the order dated 21st February, 2008 of the Additional District Judge dismissing the application of the petitioner under Sections 151, 152 and 153 of the CPC for amendment of a decree of a reference court under the Land Acquisition Act. The petition has been filed after a long delay of over one year and is accompanied with CM.No.14013/2009 for condonation of delay as well as for delay in refiling. However, the Counsel for the respondent No. 2, Land Acquisition Collector appears on advance notice and the petition has been heard.

2. The ambit of this petition is the grant of interest on solatium. The relevant dates are as under:

-----						S. No.	Date
Particulars	-----					1.	
18.12.1996	Award	of	Land	Acquisition	Collector		
-----						2.	
10.08.2000	Judgment/decre	of	the	reference	court		
-----						3.	

19.09.2001 Judgment pronounced by the Supreme Court in Sunder v. UOI AIR 2001 SC 3516 laying down that interest is payable on solatium and additional amount also. -----

4. 11.04.2002 Correction of the judgment and decree by the reference court, only to correct the rate of enhanced compensation -----

5. 09.07.2002 Petitioner filed execution -----

6. -----

26.08.2002 The petitioner filed application under Sections 151, 152 and 153 of the CPC for clarification that the petitioner has also been awarded interest on solatium and additional amount. -----

7. -----

14.07.2003 The Land Acquisition Collector remitted the decretal amount to the court, deducting therefrom tax at source. -----

8. 8.09.2005 -----

Reply filed by LAC to the application of the petitioner under Sections 151, 152 and 153 (supra). -----

9. -----

21.02.2008 The impugned order dismissing the application inter alia on the ground of the Division Bench of this court in Daulat Ram v. UOI 120 (2005) DLT 353 having held that the judgment in Sunder v. UOI does not have retrospective operation and the executing court being not empowered to amend the decree. -----

3. The operative portion of the judgment and decree dated 10th August, 2000 is as under:

10. In addition to the enhancement at the rate of Rs. 6,51,000/-per acre, the petitioner is also entitled to solatium at the rate of 30% of the market value and interest at the rate of 9% per annum for the first year from the date of taking possession and, therefore, at the rate of 15% per annum till the date of payment of excess amount which means the amount increased by enhancement vide this judgment. The petitioner shall also be entitled to get additional amount u/s 23(1-A) of the Act at the rate of 12% on the market value from the date of notification u/s 4 of the L.A. Act till the date of award or taking over the possession, whichever, is earlier. No order as to costs.

4. The grounds urged by the Counsel for the petitioner are no longer res integra. This court in Chander @ Chandu Vs. Union of India (UOI) and Another, has held after considering Patel Joitaram Kalidas and Others Vs. Spl. Land Acquisition Officer and Another, , Appasaheb Peerappa Chandgade Vs. Devendra Peerappa Chandgade and Others, and the judgment dated 10th January, 2003 of the Division Bench of this court in RFA 385/1978 Bhullan v. LAC that if the reference court has consciously restricted interest only to the enhanced compensation, it means that no interest has been awarded on the enhanced solatium and

additional amount payable u/s 23(1-A) of the Act. It was further held that if the reference court was conscious of the claim of interest and on one facet only interest has been allowed then obviously qua the others the interest would be deemed to be disallowed. The aforesaid judgment in Chander was noticed and approved by the Division Bench of this court in Rai Singh v. UOI WP(C) 3543/2008 decided on 25th September, 2008.

5. The Counsel for the LAC also relies upon the order dated 10th September, 2008 in CM(M) 196/2007 Chhanga Singh v. UOI. The arguments as urged in the present case were urged in that case also. It was nevertheless held that the judgment/decreed of the reference court being of a date before the pronouncement of the judgment in Sunder v. UOI and the reference court having awarded interest only on the additional compensation, the petitioners would not be entitled to the benefit of Sunder (supra).

6. In view of the aforesaid judgments, no case for interference is made out.

The petition is dismissed.

CM No. 14012/2009 (Under Section 151 CPC for exemption)

Allowed, subject to just exceptions.