
(2006) 03 AP CK 0119
In the Andhra Pradesh High Court
Case No : CRP No. 484 of 2005

Special Tahsildar, Land Acquisition for ESSAR, Gujarat Ltd.	APPELLANT
Vs	
Chelikani Chiranjeevi (died) by LRs. and Others	RESPONDENT

Date of Decision : 09-03-2006

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 18, 23(1A), 23(2), 28

Citation : (2006) 4 ALD 199 : (2006) 6 ALT 26

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : E. Madan Mohan Rao, for the Appellant; V.L.N.G.K. Murtby in C.R.P. Nos. 484, 486, 487 and 529 of 2005, Mavidi Rama Rao in CRP No. 528 of 2005 and S. Agastya Sarma in CRP No. 531 of 2005, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—In this batch of revisions, the Land Acquisition Officer, appointed by the Government, for the purpose of acquiring the lands for the benefit of M/s. Essar Gujarat Limited, Kakinada, challenges the individual orders passed by the Court of II Additional Senior Civil Judge, Kakinada, in execution proceedings. The lands of the respondents herein have been acquired for the benefit of M/s. Essar Gujarat Limited, Kakinada, by taking recourse to the procedure under the Land Acquisition Act (for short "the Act"). The awards are passed u/s 11 of the Act. Not being satisfied with the compensation awarded to them, the respondents sought references u/s 18 of the Act. The petitioner made references to the Principal Senior Civil Judge, Kakinada.

2. The trial Court disposed of the Original Petitions, enhancing the compensation, but denying the benefit of interest on the solatium and additional market value. The respondents herein filed individual appeals. A Division Bench of this Court further enhanced the compensation, and observed that the respondents shall be entitled for statutory benefits.

3. After the judgments of the High Court in the respective appeals became final, the respondents filed E.Ps., for payment of the differential balance amount. In their Execution Petitions, they included interest on solatium and additional market value. The executing Court granted the same. The petitioner challenges the action of the executing Court, in awarding the interest on solatium and additional market value.

4. Sri E. Madan Mohan Rao, learned Counsel for the petitioner, submits that in the orders passed in the original petitions, the trial Court specifically denied the interest on solatium and additional market value, and such denial was, in a way, approved by the High Court, since that part of the decree was not, either modified or set aside. He contends that once the High Court did not vary with the decree passed by the trial Court, insofar as it denied the benefit of interest on solatium and additional market value, the respondents were not entitled to claim it, and that the executing Court committed illegality in directing payment of the same.

5. Sri V.L.N.G.K. Murthy, learned Counsel for the respondents, on the other hand, submits that the civil Court refused to grant interest on solatium and additional market value, in view of the uncertainty of law, prevailing at the relevant point of time, and by the time the appeals came to be decided by this Court, the Supreme Court made it clear that the interest is payable on solatium and additional market value. He contends that the observation of the High Court that the respondents are entitled for all the statutory benefits, amounts to reversal of the judgment of the civil Court, insofar as it refused the said benefit.

6. The controversy in this batch of revisions is very limited. The Land Acquisition Act was amended in the year 1984, bringing about substantial changes. For the purpose of this batch of cases, it is sufficient to refer to the amendments, which relate to the payment of solatium and interest. Under the unamended provisions, solatium was payable to the landowner at 15%, on the market value, under Sub-section (2) of Section 23 of the Act. Through the amendment, it was enhanced to 30%. Subsection (1)A was added to Section 23, providing for payment of additional market value, at the rate of 12% per annum, on the market value, for the period commencing from the date of publication of notification u/s 4(1) of the Act, upto the date of award to be passed u/s 11 of the Act, or the date of taking possession, whichever is earlier.

7. Section 34 of the Act provides for payment of interest at 9% per annum, for the first year, from the date of taking possession of the land, and thereafter, at 15% till the date of payment of compensation. Section 28 mandates that where the civil Court enhances the compensation on a reference made to it, the enhanced amount shall carry the interest, at the rate of 9% from the date of taking possession, for one year, and thereafter, at 15%, till the date of deposit of such amount.

8. In *Mir Fazeelath Hussain and others Vs. Special Deputy Collector Land*

Acquisition, Hyderabad [OVERRULED], , a Three-Judge Bench of the Supreme Court took the view that solatium cannot be treated, as part of the compensation, and in that view of the matter, interest is not payable thereon. This was followed by certain other judgments, such as, in Yadavrao P. Pathade (Dead) by Lrs. and Others Vs. State of Maharashtra, . These judgments, however, were at variance, with the view expressed in Periyar and Pareekanni Rubbers Ltd. Vs. State of Kerala, . It was in this context, that a reference was made to a Five-Judge Bench.

9. The original petitions u/s 18 of the Act, in relation to the case of the respondents, were disposed of, at a time, when the law laid down by the Supreme Court in Yadavrao P. Pathade's case (supra), was holding the field. Therefore, the respondents were denied the interest on solatium and additional market value.

10. The appeals preferred by the respondents herein were disposed of by this Court, on 13-8-2002. By this time, a Five-Judge Bench of the Supreme Court answered the reference made to it, in *Sunder v. Union of India* 2001 (5) ALD 136 (SC) : 2001 (2) An.WR 343 . After discussing the relevant provisions, and various judgments rendered by the Supreme Court and High Courts, on the subject, it was held ultimately as under :

Hence, the person entitled to the compensation awarded is also entitled to get interest on the aggregate amount including solatium.

11. It was in this context, that a Division Bench of this Court, while disposing of the appeals preferred by the respondents herein, held that in addition to the compensation enhanced by it, the respondents (appellants therein) are entitled to the statutory benefits.

12. It is true that neither the judgment of Supreme Court in *Sunder's* case (supra) was specifically referred to, nor the observation of the trial Court that the respondents are not entitled for interest on solatium and additional market value, was specifically overruled. However, once it is emerged that the Supreme Court has authoritatively pronounced, as to the entitlement of landowner to be paid the interest on solatium and additional market value, the observation of the High Court that the respondents herein are entitled for statutory benefits must be understood, in that context.

13. Once the Act provides for payment of interest on the compensation, and the same has been interpreted by the Supreme Court as to include components of solatium and additional market value, there does not exist any discretion, either in the Land Acquisition Officer, Civil Court, or this Court. When such statutory benefits cannot be denied, even by specific orders, the denial cannot be inferred on the sole ground that it was not made clear by this Court.

14. The executing Court took into account, the judgments rendered by the Supreme Court and this Court, on the subject, and ultimately held that the

respondents are entitled to be paid interest on solatium and additional market value. This Court does not find any basis to interfere with the orders under review.

15. The CRPs are accordingly dismissed. There shall be no order as to costs.