

(2006) 08 P&H CK 0412
In the Punjab And Haryana At Chandigarh

State of Haryana and Another	Vs	APPELLANT
Surat Singh and Others		RESPONDENT

Date of Decision : 22-08-2006

Acts Referred:

Citation : (2006) 08 P&H CK 0412

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Judgement

Mahesh Grover, J.—On 1st March, 2001, the following order was passed by this Court:

Notice of motion to the respondents. Learned Counsels for the respondent who are present in the court accept notice and have replies to the application which is taken on the record. Copy thereof has been supplied to the counsel for the applicant. It is stated by the learned Counsel for the respondents that the respondents have also filed the appeals for seeking further enhancement in compensation which have been awarded by the learned Addl. Distt. Judge and that of the appeals of the appellants similarly situated have been admitted and some are in process of filing.

Faced with this situation, it shall be in the interest of all that the enhancement granted by the learned Addl. Distt. Judge is allowed to be disbursed to the claimant.

It is directed that the applicant-appellant shall calculate the total amount by taking into consideration the solatium and interest statutorily payable and calculable and thereafter the amount which has been paid in pursuant to the award of the land acquisition Controller shall be deducted there from and that 50% of the said balance amount shall be deposited in the reference court within a period of two months from today. The claimants shall be entitled to file an application for disbursement of the said amount without furnishing any security. However, notice upon the said application shall be issued to the appellant and

that thereafter the said application be disposed of accordingly. The balance 50% by calculating the resultant effect of solatium and interest up to the date of deposit, the said amount be deposited with the State Bank of Patiala, High Court Branch, Chandigarh through the Registrar of this Court within one month after the expiry of the above said period of two months. The bank is directed to convert the said amount into FDR for the period where it shall earn maximum rate of interest. If the appeal is not decided within the said period the FDR shall be renewed accordingly. The amount so deposited shall be subject to the decision of the appeal.

It is made clear that if the appeal is dismissed the shortfall of the interest whatsoever may be while keeping into consideration the statutorily payable interest and the solatium accordingly, shall be aid by the appellant in pursuant to the order passed in the appeal. In view of the above, the execution of award of the reference court shall remain stayed till further order.

In view of the above C.M. stands disposed of accordingly.

R.F.A. No. 2477 of 2000

Admitted.

March 1, 2001 Sd/- J.S. Narang

Judge.

2. In pursuance to this order, the amount of Rs. 53,19,378/- was deposited before the executing court and paid to the applicants-appellant on 2nd May, 2001 and an equal amount was deposited with the State Bank of Patiala, High Court Branch, Chandigarh.

3. Subsequently, on 19th September, 2001, a per the judgment of Hon"ble the Supreme Court in the case of Sunder Vs. Union of India, , the applicants became entitled to an additional amount of Rs. 17,58,165/- on account of the benefit of the Land Acquisition Act. The applicants-appellants though became entitled to this amount in 2001, but the same was paid to them on 18th February, 2005, upon which the applicants made a statement that he is satisfied and the execution was accordingly dismissed as such. The relevant order of the executing court is a follows:

Present: Shri Ravinder Dahiya Ld. Counsel for the DH

In view of the statement made by learned Counsel for the DH, recorded separately, the present execution petition is dismissed as fully satisfied. File be consigned to record room.

Dated: 28.5.2005 Addl. District Judge,

Sonepat

4. The aforesaid order was passed on the statement of the applicant-appellant

which is as follows:

Statement of Sh. Ravinder Dahiya, Advocate for the Decreeholder. Stated that I withdraw present execution petition being fully satisfied.

5. The applicants-respondents makes the grievance of the aforesaid delayed payment by way of this application.

6. I am afraid that this question cannot be gone into in the present application and the prayer of the applicants-respondents cannot be answered in the present proceedings. If the applicants-appellants aggrieved by the action of the respondent-State making the delayed payment he may, if so advised, resort to the appropriate remedy available to him under the law. The second prayer that has been made in this application is for the release of the amount which has been deposited in the bank, referred to above, pursuant to the order dated 1st March, 2001. In support of this prayer, the appellant has relied upon the order passed by this Court on 20th May, 2005, in Civil Misc. No. 4818 C of 2004 in R.F.A. No. 2586 of 2000, wherein the amount lying in the bank was directed to be released to the applicants therein.

7. I have heard the learned Counsel for the applicants. In so far as this prayer is concerned, I am of the view that since at the time of the admission of the appeal, the aforementioned order was passed keeping in view the interest of the State, the same cannot be modified, as it would be difficult for the State to recover the amount in case the applicants-appellants fails in appeal. However, in the circumstances of the case, this appeal along with the connected appeals, which are stated to be 70 in number, are directed to set down for hearing on 4.1.2007.