

(2018) 08 SHI CK 0040

In the High Court Of Himachal Pradesh

Case No : Regular First Appeal No. 324 Of 2007

State Of H.P. And Others

APPELLANT

Vs

Roop Lal And Others

RESPONDENT

Date of Decision : 08-08-2018

Acts Referred:

Land Aquisition Act 1894 — Section 4, 34

Citation : AIR 2018 HP 172

Hon'ble Judges : Sureshwar Thakur, J

Bench : Single Bench

Advocate : Hemant Vaid, Y.s. Thakur, Vikrant Chandel

Final Decision : Disposed Off

Judgement

Sureshwar Thakur, J

1. The landowners' land was acquired for construction, of, Patrighat-Gobharta Road, in, Muhal Patrighat. The learned Reference Court, upon, receiving the apt reference, from, the Collector concerned, had proceeded, to assess, vis-a-vis, the acquired land of the landowners, compensation amount(s) borne in the sums enumerated thereunder, (a) besides had also in the operative part of the verdict, made a conclusion, qua the compensation amount assessed by the Collector concerned, vis-a-vis, the landowners qua their lands, brought to acquisition, not, meriting any interference. The effect of the learned Reference Court hence affirming the award pronounced by the Collector, has sparked the institution of the instant RFA before this Court, (b) with espousal(s) therein qua the Collector concerned, inaptly levying interest, upon, the compensation amount assessed by him, w.e.f. 1.05.1982, upto the date, of, the department concerned, after issuance, of, an apt notification, under, Section 4 of the Land Acquisition Act, hence, taking possession thereof.

2. The learned Additional Advocate General has contended with vigour before this Court, that, in the learned Collector concerned, levying, the, apt statutory

interest, upon, the compensation amount assessed, vis-avis, the landowners, and, also his directing qua its accrual commencing, from, the date whereat, the, public works department, rather utilized the land, palpably failing beyond the domain and ambit of Section 34 of the Land Acquisition Act, provisions whereof stand extracted hereinafter:-

"34. Payment of interest. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of [nine per centum] per annum from the time of so taking possession until it shall have been so paid or deposited:"

3. (a) rather the connotation acquired by the underlined statutory coinage existing therein "taking possession" appertains, only to a valid possession, as, assumed, of, by the acquired land, by the department concerned, (b) preeminently subsequent, to, the commencement, of, the statutory proceedings, and, any utilization, of the lands, of, the landowners, and, concomitantly any holding of possession thereof, prior thereto, rather not foisting any jurisdiction, upon, the Collector or upon the reference Court, to since then or to therefrom levy statutory interest, upon, the compensation amount, assessed by both. The aforesaid submission addressed before this Court, by the learned Additional Advocate General, has immense vigour, as it is squarely, bears concurrence, with, the verdict pronounced by the Hon'ble Apex Court in a case titled as R.L. Jain (D) by LRS. v. DDA, reported in (2004) 4 SCC 79. Therein, the Hon'ble Apex Court has made, a, trite expostulation of law, that the mandate of Section 34 of the Land Acquisition Act being applicable only, vis-a-vis, possession assumed or taken under the Act, and, mandate thereof being inapplicable, vis-a-vis, possession of acquired lands, as, taken prior to the issuance, of, the primary notification.

4. Consequently, the instant appeal is allowed, and, the award of the Collector, as also, the award of the Reference Court, rather concurrently, hence, levying the apt interest, upon, the compensation amount, as, assessed qua the acquired land(s) of the landowners, and, commencement thereof standing mandated therein, to arise from 1982, is, to the above extent interfered with, (b) and awards of the collector concerned, and, of the reference Court, is modified to the extent, that, the compensation amount concurrently adjudged, qua the acquired land, being amenable to carry interest, under Section 34 of the Act, and, commencement thereof, rather occurring, from, the date of assumption, of, valid possession thereof, in pursuance, to, an apt notification issued, under Section 4 of the Land Acquisition Act. All pending applications also stand disposed of. No order as to the costs. Records be sent back forthwith.