
(2014) 02 MP CK 0008
In the Madhya Pradesh High Court
Case No : F.A. No. 277 of 2009

State of M.P.

APPELLANT

Vs

Umrao and Others

RESPONDENT

Date of Decision : 19-02-2014

Acts Referred:

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

Citation : (2014) 2 MPHT 133 : (2014) 2 MPLJ 28

Hon'ble Judges : S.K. Gangele, J;G.D. Saxena, J

Bench : Division Bench

Advocate : M.P.S. Raghuvanshi, Additional Advocate General, Advocate for the Appellant

Judgement

G.D. Saxena, J.—This appeal u/s 54 of the Land Acquisition Act, 1894 has been preferred by the appellant/State against a judgment dated 9th March, 2009 in Civil Reference Case No. 33/06 of the District Judge Shivpuri (M.P.) directing thereby the appellant/State to pay a sum of Rs. 31,28,876/- as compensation along with 12% additional payment u/s 23(1A) from the date of the Notification, 30% solarium on the awarded amount with 9% interest in accordance with the provisions of section 34 of the Land Acquisition Act, 1894. The facts necessary for the decision of this appeal are that a Notification dated 27-6-2003 for proposed acquisition of the properties belonging to the respondents u/s 4(1) of the Land Acquisition Act, which were situated in village Amola was issued. After complying with the procedure as laid down in law, declaration for the properties required u/s 6 of the Land Acquisition Act was accordingly published. Thereafter on making enquiry, the Collector passed the award in favour of the owners/beneficiaries whose properties were acquired. Being aggrieved by the award, the owners/beneficiaries filed an application u/s 18(1) of the Land Acquisition Act before the Collector for making a reference to the District Judge for consideration of their claims. In Reference Case No. 33/06, the learned District Judge after considering the evidence as adduced and hearing the parties came to the conclusion that the owners failed to establish their case and therefore by

maintaining the Award assailed before him, rejected their claims for enhancement. However, at the time of consideration of the claims, the learned Judge found that since the properties belonged to the owners came within the definition of the lands, the claimants are also entitled to receive 12% additional compensation u/s 23(1A) from the date of the Notification, 30% solatium on the awarded amount with 9% interest in accordance with the provisions of section 34 of the Act and thereby so awarded the amount under the aforesaid heads. Being aggrieved, the appellant-State has come to this Court.

2. Shri M.P.S. Raghuvanshi, learned Additional Advocate General appearing for the appellant/State contended that the impugned Award in respect of payment of compensation as well as the amounts u/s 23(1A), 23(2) and 34 of the Act is against the fact, evidence on record and the law. It is submitted that the provisions under the aforesaid sections would apply only to those cases where the land has been acquired but in the present case since the buildings were taken into acquisition, assessment of the value of the properties would be different than the agricultural land and the ratio of market value would not applied. He placed reliance on the decision in the case of Kiran Tandon Vs. Allahabad Development Authority and Another, and ultimately prayed that by allowing the appeal, the award assailed in the appeal may be quashed.

3. The question for consideration in this appeal is whether the Award passed by the Reference Court is based against the recognized principles of law?

4. On factual aspects, it is apparent that the learned Collector after considering the material placed on record and hearing the parties passed the appropriate amount for acquisition of the properties on legal parameters. The Award after due inquiry, u/s 11 of the Act was passed by the Collector, Shivpuri. The findings of the learned Collector/Land Acquisition Officer is based upon proper valuation of the properties which stand affirmed on reference by the learned District Judge. Even otherwise, it is a settled principle of law that the onus to prove entitlement to receive higher compensation is upon the claimants. Since the Court-below held that the claimants utterly failed to lead cogent and proper evidence in support of their cases their claims for enhancement of compensation was rejected. After considering the arguments and perusing both the orders, this Court finds that the compensation determined is just and fair to the individuals whose properties have been acquired. Hence, no interference is warranted.

5. The next question for consideration is as to whether the learned Court-below has committed any illegality in awarding the amount under sections 23(1A), 23(2) and 34 of the Act.

6. At this stage, it may be mentioned here that solatium is an integral part of compensation, award of which is mandatory. Basically section 34 postulates award of interest at 9% per annum from the date of taking possession only until it is paid or deposited. These are mandatory provisions. In the case of Gurpreet Singh Vs. Union of India (UOI), , the Hon''ble Apex Court has held as under:--

The mandate of section 34 and section 28 that interest would run from the date the Collector takes possession till the particular amount is deposited as provided in those sections, ensures that the claimant is recompensed adequately. Section 28 ensures such recompense at each stage of enhancement of compensation. This clearly indicates that a claimant or decree-holder who has received the entire amount awarded by the Reference Court or who had notice of the deposit of the entire amount so awarded cannot claim interest on the amount he has already, received merely because the Appellate Court has enhanced the compensation and has made payable additional compensation. Such a blanket reopening of the transaction is not warranted even in respect of a money decree. Section 28 of the Act indicates that the award of interest is confined to the excess compensation awarded and it is to be paid from the date of dispossession. This is in consonance with the position that a fresh re-appropriation is not contemplated or warranted by the scheme of the Act.

7. In this case the Reference Court has found that no such interest or solatium is awarded by the Land Acquisition, Officer at the time of grant of award, hence, taking into consideration the aforesaid provisions the same has been awarded.

8. Consequently, this Court does not find any force in the submission put forth by the learned Additional Advocate General that no such sums could have been awarded to the owners/beneficiaries and the learned Court below exceeded in awarding the amount in view of the mandatory provisions. The appeal fails and is dismissed accordingly.