
(2006) 02 P&H CK 0111
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 406 of 1994

State of Punjab

APPELLANT

Vs

Gulab Kaur (Died)

RESPONDENT

Date of Decision : 15-02-2006

Acts Referred:

Land Acquisition Act, 1894 — Section 34, 4, 6

Citation : (2006) 143 PLR 118 : (2006) 2 RCR(Civil) 477

Hon'ble Judges : Hemant Gupta, J

Bench : Single Bench

Advocate : T.S. Chauhan, A.A.G, for the Appellant; R.K. Aggarwal, for the Respondent

Final Decision : Allowed

Judgement

Hemant Gupta, J.—The challenge in the present revision petition is to the order passed by the learned executing Court on 13.9.1993 whereby the learned executing Court has found that the decree-holder is entitled to interest on the enhanced amount of compensation at the rate of 9% per annum 1.11.1960 to 31.11.1961 and at the rate of 15% per annum for the subsequent period till the amount is deposited in Court.

2. Land measuring 6 bighas and 10 biswas was acquired by way of a Notification u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act"), published in the State Government Gazette on 23.1.1981. Notification u/s 6 of the Act was published on 5.6.1981. The learned Land Acquisition Collector vide award dated 23.4.1985, assessed compensation at the rate of Rs. 48,000/- per acre. Admittedly, the possession of the acquired land was taken by the State Government on 1.11.1960. The Land Acquisition Collector awarded interest at the rate of 6% from 1.1.1960 to 23.1.1981. The Land Acquisition Collector also awarded an extra amount of 15% on account of compulsory acquisition and further interest at the rate 6% from 23.1.1981. Later on, in supplementary award dated 25.4.1985, the Land Acquisition Collector increased the amount of

compensation on account of compulsory acquisition from 15% to 30%. The rate of interest was also raised from 6% to 9% for the period 30.4.1982 to 18.9.1984.

3. In a reference against the said award, the learned District Judge, Patiala, vide its award dated 1.2.1988 enhanced the amount of compensation to Rs. 50,000/- per acre. It was also found that the land owner shall be entitled to 30% of the amount of compensation on account of solatium. The land owner was further found entitled to all the benefits available to her under the amended new provisions of the Land Acquisition Act.

4. In execution of the said award, the decree-holder claimed interest at the rate of 9% from 1.11.1960 to 31.11.1961 and, thereafter, at the rate of 15% till 30.5.1988. The learned executing Court has allowed such interest, which is being disputed by the petitioners in the present revision petition.

5. The learned Counsel for the petitioners has relied upon the judgment of the Supreme Court reported as R.L Jain (D) by L.Rs. v. DDA and Ors. (2004) 137 P.L.R. 794, to contend that interest for the pre-notification period from the date of possession cannot be claimed u/s 34 of the Act.

6. After hearing the learned Counsel for the parties, I am of the opinion that the order passed by the Seamed executing Court is not sustainable in law. Though, in terms of the aforesaid judgment, the grant of interest by the Land Acquisition Collector prior to the date of Notification u/s 4 of the Land Acquisition Act itself may be under cloud, but the State Government cannot challenge the amount of compensation awarded by the Land Acquisition Collector. The grant of interest for the period prior to the date of publication of Notification u/s 4 of the Land Acquisition Act cannot be permitted to be disputed by the petitioners. Therefore, the award announced by the Land Acquisition Collector including the interest cannot be challenged in these proceedings.

7. However, the grant of interest at the rate of 9% per annum from 1.11.1960 for the first year and for the subsequent year at the rate of 15% per annum is clearly not sustainable in view of the aforesaid judgment. The provisions of the Land Acquisition Act (Amendment), 1984 contemplating such interest cannot be claimed by the decree-holder in respect of the pre-Notification period.

8. Consequently, the present revision petition is allowed. The order passed by the learned executing Court granting interest at the rate of 9% for the first year from 1.11.1960 and at the rate of 15% for the subsequent year is set aside.