

(2009) 05 AHC CK 0259
In the Allahabad High Court

State of U.P.

APPELLANT

Vs

Mata Din

RESPONDENT

Date of Decision : 27-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0259

Hon'ble Judges : Pankaj Mithal, J

Final Decision : Disposed Of

Judgement

Pankaj Mithal, J.

Heard learned standing counsel for the appellant and Sri L.K. Singh for the claimantrespondent.

This appeal is directed against the judgment, order and award of the reference court dated 17.5.1984 deciding LAR No. 24 of 1982.

Learned counsel for the parties agree that several appeals relating to this very acquisition have already been decided by this Court and the compensation as awarded by the reference Court has been upheld. In this regard reliance has been placed upon a judgment and order dated 26.2.2008 passed by this Court in First Appeal No.(238) of 1984 State of U.P. Vs. Vijay Kumar and others. By this judgment this Court following the earlier judgment of the division Bench reported in 2001 (44) ALR 52 Smt. Tara Devi and others Vs. State of U.P. , not only upheld the market value @ Rs. 33000/ per bigha awarded by the reference Court but has further awarded solatium @ 30%. Accordingly, following the same reasoning and the decision referred to above, the award of the market value of Rs. 33000/ per bigha as awarded by the reference Court with 30% solatium under Section 23 (1A) of the Act is to be upheld.

It has further been submitted by the learned counsel for the respondent that the claimants are entitled to interest @ 9% per annum on the excess compensation awarded for the first year of possession and @ 15% for subsequent period which has not been awarded. The award of interest under Section 28 of the Act is

statutory in nature and therefore it is obligatory upon the Court to grant the same irrespective of the claim made in this regard by the claimantrespondent. In (1991) 1 SCC 262 Shree Vijay Cotton and Cotton Oil Mills Ltd Vs. State of Gujrat it has been laid down by the Supreme Court that interest on compensation can be claimed at any stage of the proceedings that he can claim interest even in appeal filed by the State or the beneficiary without filing any separate appeal or cross objections. The Supreme Court further in the case of (2007) 2 SCC 341 Patel Joitram Kalidas and others Vs. STL. Land Acquisition Officer and another ruled that grant of interest on compensation is automatic and does not involve judicial discretion and therefore, Court is bound to grant interest irrespective of the claim made or not.

The award of the reference Court is dated 17.5.1984 which falls between the two dates i.e. 30.4.1982 and 24.9.1984 contemplated by the transitional provision of Section 30 of the Land Acquisition (Amending) Act 68 of 1984 and as such interest at the above rate is admissible.

Accordingly, the claimants are also entitled to interest on the excessive amount of compensation awarded by the reference Court @ 9% from the date of possession for a period of one year and thereafter @ 15 % till the payment/ deposit of the award as awarded.

Appeal disposed of accordingly and the award of the reference Court shall stand modified to the above extent.