

(2010) 01 DEL CK 0085

In the Delhi High Court

Case No : CM (M) 1078 of 2009 and CM No. 14057 of 2009

Surinder Singh and Another

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 21-01-2010

Acts Referred:

Citation : (2010) 01 DEL CK 0085

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : D.V. Khatri, for the Appellant; Sangeeta Chandra, for R-1 and Sanjay Poddar and Ramesh Ray for R-2, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—This petition under Article 227 of the Constitution of India has been preferred against the order dated 16th March, 2009 of the Additional District Judge dismissing the application of the petitioner for payment of interest on additional amount and solatium under the Land Acquisition Act. The petition is accompanied with an application being CM No. 14057/2009 for condonation of delay of 66 days in re-filing the petition. However, the Counsel for the respondent No. 2/LAC has appeared on advance notice and the petition has been heard.

2. The ambit of this petition is the grant of interest on solatium and additional amount. The relevant dates are as under:

Particulars	S.	No.	Date
Award of Land Acquisition	1.	1982	Collector
Judgment/decreed of the reference court	2.	13.07.2000	
pronounced by the Supreme Court in Sunder v. UOI AIR 2001 SC 3516 laying	3.	2001	Judgment

down that interest is payable on solatium and additional amount also.

----- 4. 2002 Execution
filed by the petitioner.
----- 5. 07.07.2004
Execution consigned to record on payment by the LAC.
----- 6. 17.03.2005
Application filed by the petitioner in Execution complaining of non payment of
interest on solatium in accordance with the judgment in Sunder v. UOI.
----- 7. 16.03.2009
Impugned order dismissing the application.

3. The operative portion of the judgment and decree dated 13th July, 2000 is as under:

10. In addition to the enhancement at the rate of Rs. 29,920/- per bigha, the petitioners are also entitled to solatium at the rate of 30% of the market value and interest at the rate of 9% p.a. for the first year from the date of taking possession and, thereafter, at the rate of 15% p.a. till the date of payment of excess amount which means the amount increased by enhancement vide this judgment. The petitioners are also entitled to additional amount at the rate of 12% per annum from the date of notification u/s 4 of the Act to the date of announcement of the award or to the date of taking possession, whoever is earlier. No order as to costs.

4. The grounds urged by the Counsel for the petitioner are no longer res integra. This court in Chander @ Chandu Vs. Union of India (UOI) and Another, has held after considering Patel Joitaram Kalidas and Others Vs. Spl. Land Acquisition Officer and Another, , Appasaheb Peerappa Chandgade Vs. Devendra Peerappa Chandgade and Others, and the judgment dated 10th January, 2003 of the Division Bench of this court in RFA 385/1978 Bhullan v. LAC that if the reference court has consciously restricted interest only to the enhanced compensation, it means that no interest has been awarded on the enhanced solatium and additional amount payable u/s 23(1-A) of the Act. It was further held that if the reference court was conscious of the claim of interest and on one facet only interest has been allowed then obviously qua the others the interest would be deemed to be disallowed. The aforesaid judgment in Chander was noticed and approved by the Division Bench of this court in Rai Singh v. UOI WP(C) 3543/2008 decided on 25th September, 2008.

5. The Counsel for the LAC also relies upon the order dated 10th September, 2008 in CM(M) 196/2007 Chhanga Singh v. UOI. The arguments as urged in the present case were urged in that case also. It was nevertheless held that the judgment/decreed of the reference court being of a date before the pronouncement of the judgment in Sunder v. UOI and the reference court having awarded interest only on the additional compensation, the petitioners would not be entitled to the benefit of Sunder (supra).

6. In view of the aforesaid judgments, no case for interference is made out. The petition is dismissed.