
(2008) 09 SC CK 0022

In the Supreme Court Of India

Case No : Civil Appeal No's. 5640-5641 of 2008 (Arising out of S.L.P. (C) No's. 760-761 of 2006)

The Collector, Land Acquisition and Another

APPELLANT

Vs

Jaswant Singh and Others

RESPONDENT

Date of Decision : 15-09-2008

Acts Referred:

Constitution of India, 1950 — Article 141, 142, 227
Land Acquisition Act, 1894 — Section 18

Citation : (2008) 4 AWC 4096 Supp : (2008) 4 KLT 142 : (2009) 3 LW 374 : (2008) 8 MLJ 505 : (2008) 105 RD 710 : (2008) 12 SCALE 495 : (2008) 12 SCC 745

Hon'ble Judges : Mukundakam Sharma, J;Arijit Pasayat, J

Bench : Division Bench

Advocate : K.K. Khurana, A.A.G., A.K. Mehta and Ajay Pal, for the Appellant; Anis Ahmed Khan, for the Respondent

Final Decision : Dismissed

Judgement

Arijit Pasayat, J.—Leave granted.

2. Challenge in these appeals is to the order of a learned Single Judge of the Punjab and Haryana High Court. A Revision Petition, in terms of Article 227 of the Constitution of India, 1950 (in short `the Constitution) was filed before the High Court questioning the correctness of the order passed by the Executing Court, i.e learned Additional District Judge, Ludhiana holding that the respondents were entitled to claim interest on the amount of solatium. The petition was dismissed in the light of a judgment of this Court in *Sunder Vs. Union of India*, . It was held in the said case that the interest is payable on the amount of solatium as well.

3. Learned Counsel for the appellant submitted that in the present case, the Reference Court had categorically observed as follows while disposing of several land reference cases u/s 18 of the Land Acquisition Act, 1894 (in short `the Act'):

However, they shall not be entitled to any interest on the amount of solatium.

4. It is submitted by learned Counsel for the appellant that in view of the aforesaid categorical finding of the Reference Court, the Executing Court could not have gone beyond the decree. Learned Counsel for the respondents, on the other hand, submitted that the matter was squarely covered by the decision in Sunder's case (*supra*) and, therefore, the High Court was justified.

5. In a subsequent Constitution Bench judgment of this Court in *Gurpreet Singh Vs. Union of India (UOI)*, , the position relating to the power of the Executing Court was examined. In paragraph-54, it was noted as follows.

54 One other question also was sought to be raised and answered by this Bench though not referred to it. Considering that the question arises in various cases pending in Courts all over the country, we permitted counsel to address us on that question. That question is whether in the light of the decision in *Sunder (supra)*, the awardee/decreed holder would be entitled to claim interest on solatium in execution though it is not specifically granted by the decree. It is well settled that an execution court cannot go behind the decree. If, therefore, the claim for interest on solatium had been made and the same has been negatived either expressly or by necessary implication by the judgment or decree of the reference court or of the appellate court, the execution court will have necessarily to reject the claim for interest on solatium based on *Sunder* on the ground that the execution court cannot go behind the decree. But if the award of the reference court or that of the appellate court does not specifically refer to the question of interest on solatium or in cases where claim had not been made and rejected either expressly or impliedly by the reference court or the appellate court, and merely interest on compensation is awarded, then it would be open to the execution court to apply the ratio of *Sunder (supra)* and say that the compensation awarded includes solatium and in such an event interest on the amount could be directed to be deposited in execution. Otherwise, not. We also clarify that such interest on solatium can be claimed only in pending executions and not in closed executions and the execution court will be entitled to permit its recovery from the date of the judgment in *Sunder* (September 19, 2001) and not for any prior period. We also clarify that this will not entail any re- appropriation or fresh appropriation by the decree- holder. This we have indicated by way of clarification also in exercise of our power under Articles 141 and 142 of the Constitution of India with a view to avoid multiplicity of litigation on this question.

6. The High Court has to examine the position in the light of the decision in *Gurpreet Singh's case (supra)* as the said decision is subsequent to the judgment of the High Court. Since the factual position has not been noted by the High Court, we remit the matter to the High Court to consider the matter in the light of what has been stated in paragraph-54 of *Gurpreet's case (supra)*.

7. The appeals are allowed to the aforesaid extent.