
(1998) 08 P&H CK 0064
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 4314 of 1997

Union of India

APPELLANT

Vs

Hakam Singh

RESPONDENT

Date of Decision : 21-08-1998

Acts Referred:

Citation : (1999) 1 RCR(Civil) 712

Hon'ble Judges : T.H.B.Chalapathi, J

Advocate : Mr. Anil Rathee, Advocate., Advocates for appearing Parties

Judgement

T.H.B. Chalapathi, J.

1. This Civil Revision Petition is filed against the order of the Civil Judge, Senior Division, Faridkot, dated April, 22, 1997.

2. To appreciate the controversy, certain facts need to be stated. The property of the respondents was acquired under the Requisition and Acquisition of Immoveable Property Act, 1952. The Senior Sub Judge, Faridkot, was appointed as an Arbitrator for determining the compensation for the land acquired. By an award dated April 24, 1980, the Senior Sub Judge enhanced the compensation with solatium at fifteen per cent and interest at six per cent. The claimants filed the appeal against the said award. This Court held that the claimants are entitled to solatium at the rate of thirty per cent and interest at the rate of nine per cent for the first year and fifteen per cent per annum thereafter. The Union of India filed S.L.P. No. 1780 of 1991 and Civil Appeal No. 3874 of 1992 in the Apex Court. The Apex Court held that the claimants are not entitled to solatium and interest. Meanwhile, the Union of India deposited a sum of Rs. 22,65,413.69 towards solatium and interest as per the decision of this Court. The said amount had been withdrawn by the claimants under the order of the Civil Judge, Senior Division, Faridkot. After the decision of the Supreme Court, the Union of India filed an application for refund of Rs. 22,65,413.69 deposited by the Union of India and withdrawn by the claimants along with interest from the date of withdrawal. While allowing the said application for refund of the amount under

Section 144 of the Code of Civil Procedure, the Civil Judge, Senior Division, Faridkot, passed the following order on April 22, 1997, which is impugned in this revision :

"Therefore, from the above, I find that the amount paid by the Union of India on account of solatium and interest are liable to be refunded to the Union of India. Hence, finding merit in this application, I accept the same and order the refund of Rs. 22,65,413.69 paid by the Union of India as solatium and interest. The respondents are directed to pay this amount within one month, otherwise, applicant will be entitled to interest @ 12% P.A. after the period till the actual realisation."

As the Civil Judge refused to grant interest on the amount withdrawn by the claimants from the date of withdrawal till May 22, 1997, that necessitated the Union of India to file this revision petition.

3. The only question to be decided in this petition is, whether, the Union of India is entitled to interest from the date of withdrawal of the amount by the claimants to which they are not entitled in view of the decision of the Apex Court. According to the respondents, the Apex Court, while setting aside the order of this Court, has not awarded interest on the refund of the amount deposited by the Union of India and withdrawn by the claimants and, therefore, the Union of India is not entitled to recover any interest on the amount withdrawn by the claimants. The question involved is squarely covered by the judgment of the Supreme Court in *Lucy Kochuvareed v. P. Mariaapa Gounder and others*, AIR 1979 SC 1214 wherein it has been held as follows :

"A sum of Rs. 30,000/ being the rent collected by Receiver from the third defendant, was deposited in Court. This amount was withdrawn by the third defendant on August 19, 1953, following the dismissal of the plaintiff's suit by the High Court. When the plaintiff's appeal succeeded in this Court and a decree was passed in his favour by this Court, then defendant No. 3 redeposited the sum of Rs. 30,000/ only on March 9, 1959. The trial Court had awarded interest at six per cent per annum on this amount of Rs. 30,000/ for the period from August 19, 1953, the date on which the defendant withdrew that deposit, until March 9, 1959, the date when he redeposited the sum. The High Court has disallowed interest on this amount for the aforesaid period on the ground "that the Supreme Court does not award that."

4. In view of the above decision of the Supreme Court, I am of the opinion that the Union of India is entitled to interest from the date when the amount was withdrawn by the claimants till realisation.

5. I, therefore, allow this revision petition and hold that the petitioner, namely, Union of India is entitled to interest at the rate of six per cent per annum from the date of withdrawal of the amount by the claimants till the date of the order dated April 24, 1997, and further interest at twelve per cent per annum from April 24, 1997, to realisation of the amount of solatium and interest which was

withdrawn by the claimants.