
(1995) 10 KL CK 0005
In the High Court Of Kerala
Case No : C.R.P. No. 1941 of 1995-H

V. Bhaskaran Pillai

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 31-10-1995

Acts Referred:

Citation : (1996) 1 ILR (Ker) 730 : (1996) 219 ITR 198

Hon'ble Judges : K. Sreedharan, J

Bench : Single Bench

Advocate : Party in Person, for the Appellant; Ravindranatha Menon, for the Respondent

Judgement

K. Sreedharan J.

1. A short and interesting question arises for consideration in this revision petition. The petitioner's property was acquired by the State- as per the provisions contained in the Land Acquisition Act, Dissatisfied with the quantum of compensation awarded by the Collector, the petitioner got the issue referred to the reference court, u/s 18 of the Land Reforms Act. The reference court enhanced the amount of compensation. The total amount of compensation awarded was Rs. 1,37,249.57. That amount was directed to carry interest. The petitioner filed E.P. claiming enhanced compensation and interest awarded thereon. Interest claimed in the E.P. was Rs. 1,64,473.86. That amount in full was not deposited by the State. They consider that amount as the income accrued to the petitioner for the year and a sum of Rs. 18,421.06 was deducted towards Income Tax and surcharge. Only the balance was deposited. The deposit so made together with the enhanced compensation of Rs. 1,37,249.57, was treated by the learned subordinate judge as in full satisfaction of the decree amount. The petitioner challenges this approach made by learned Sub-Judge.

2. As stated earlier, the petitioner's property was acquired by the State invoking the provisions contained in the Land Acquisition Act. He was dispossessed On

March 2, 1987. On a reference, the learned Subordinate Judge awarded enhanced compensation of Rs. 1,37,249.57 together with interest. Interest, accrued on that enhanced compensation, was treated as the income of the petitioner for the year 1995-96. The short question is whether the Government was justified in treating the interest portion of Rs. 1,64,473.86 as the income derived by the petitioner for the year 1995-96. Interest on enhanced compensation for land compulsorily acquired under the Land Acquisition Act awarded by court on reference u/s 18 of the Land Reforms Act, must be treated as having accrued year after year from the date of delivery of possession of the land. Interest that was to be deposited on July 20, 1995, cannot be treated as the income in one lump of the year 1995-96. This aspect was considered by a Full Bench of this court in Peter John Vs. Commissioner of Income Tax, . The Full Bench observed (page 721) :

"We find little force in the contention of Shri Menon that until and unless in the decree, a provision for the grant of interest is made by the court, right to receive interest does not arise or accrue in favour of the land owner (assessee). We have already noticed that the settled legal position is that the interest relates back to the date of dispossession of the property on which date compensation becomes payable whatever be the time taken to finally settle the quantum of compensation. Even assuming that the court had the discretion not to grant interest, once it is granted, the right to receive interest relates back to the date of dispossession as is the case in the case of interest awarded by the Land Acquisition Officer (Collector) u/s 34. It has also to be borne in mind that a perusal of the contents of the decree would invariably go to show that the interest granted and to be worked out by the court is not from the date of the decree but from the date of dispossession of the property and actually interest runs from day to day and accrues for the purpose of taxation in every year intervening the date of dispossession and the date of actual payment of compensation."

3. This view has been approved by the Supreme Court in Rama Bai and Others Vs. Commissioner of Income Tax, Andhra Pradesh Hyderabad and Others, , In the light of the above pronouncement, the Government was not justified in treating the interest portion as the income accrued to the petitioner for the year 1995-96. Consequently, deduction of Rs. 18,421.06 is illegal. The amount of interest should have been spread over for the period from March 2, 1987, to July 20, 1995.

4. Section 197A(1A) of the Income Tax Act, 1961, is in the following terms :

"Notwithstanding anything contained in Section 194A or Section 194K, no deduction of tax shall be made under either of the said sections in the case, of a person (not being a company or a firm), if such person furnishes to the person responsible for paying any income of the nature referred to in Section 194A or Section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax

on his estimated total income of the previous year in which such income is to be included in computing his total income will be nil."

5. In view of the above provision, the petitioner should file a declaration as contemplated by that section, before the learned Subordinate Judge's court. On his filing such statement, the learned Subordinate Judge should direct the Government Pleader to deposit the entire interest, viz., Rs. 18,421.06 withheld, within a period of two weeks therefrom. On such deposit, the decree holder must be allowed to withdraw that amount.

6. Civil revision petition is allowed in the above terms. I make no order as to costs. The petitioner will get a copy of this order and serve it on the Land Acquisition Officer, so that the amount can be deposited within the time fixed by this court.