

Hoshiarpur Improvement Trust

Vs

President, Land Acquisition Tribunal and Others

Civil Appeal Nos. 1894, 1895 and 1896 of 1990

(Kuldip Singh, N. M. Kasliwal JJ)

19.04.1990

JUDGMENT

KASLIWAL, J. -

1. Special leave granted.

2. All these petitions by special leave are disposed of by one single order as identical questions of law are involved and they are directed against the similar order of the High Court dated February 9, 1989.

3. Short controversy raised in these cases is regarding the grand of benefits under amended Sections 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894 as amended by the Land Acquisition (Amendment) Act, 1984 (hereinafter referred to as 'the Amending Act'). The President Land Acquisition Tribunal, Hoshiarpur (District Court) initially granted solatium at 15 per cent on the compensation and interest at 6 per cent per annum of the additional amount of compensation till the date of payment. The claimants submitted and interest in view of the Amending Act which came into force on September 24, 1984. The Land Acquisition Tribunal granted benefit of the Amending Act and modified the award by passing the following operative order which is subject matter of challenge in Special Leave Petition No. 9434 of 1989. Similar orders have been passed in other two cases also.

"Accordingly, I modify the award to the extent that solatium shall be payable at the rate of 30 per cent instead of 15 per cent granted earlier. Similarly, interest at the rate of 12 per cent per annum is granted from the date of notification under Section 42 of the Punjab Town Improvement Act, 1922, till the date of award of the Collector, the date of possession of the land whichever is earlier.

Further interest is awarded at the rate of 9 per cent per annum on the enhanced amount from the date of delivery of possession till the expiry of one year. Thereafter interest is awarded at the rate of 15 per cent per annum from the date of expiry of period of one year till payment. The applicant shall be entitled to recover the solatium and interest as per the modification indicated above."

4. Aggrieved against the above order, the Hoshiarpur Improvement Trust has come before this Court.

5. In order to decide the controversy, it would be necessary to mention some important dates in each

of the above cases.

6. In Special Leave Petition No. 9434 of 1989 the award was given by the Land Acquisition Collector on January 6, 1979. On a reference the award was given by the President Land Acquisition Tribunal, Hoshiarpur on March 28, 1983. The award was modified by the President Land Acquisition Tribunal by order dated August 29, 1988. The High Court dismissed the writ petition filed by the Improvement Trust on February 9, 1989.

7. In Special Leave Petition No. 9521 of 1989 the award was given by the Land Acquisition Collector on April 30, 1982. On a reference the award was given by the President Land Acquisition Tribunal, Hoshiarpur on August 29, 1985. The President Land Acquisition Tribunal modified the award by order dated August 29, 1988. The writ petition filed by the Improvement Trust was dismissed by the High Court on February 9, 1989.

8. In Special Leave Petition No. 10130 of 1989 the award was given by the Land Acquisition Collector on April 30, 1982. On a reference the award was given by the President Land Acquisition Tribunal, Hoshiarpur on August 29, 1985. The award was modified by the President Land Acquisition Tribunal by order dated September 14, 1988. Writ petition filed by the Improvement Trust was dismissed by the High Court On February 9, 1989.

9. Learned counsel appearing on behalf of the Improvement Trust contended that no benefit could have been given under Section 23(1-A) which was inserted by the Amending Act. It was contended that in a recent decision given by this Court in *Union of India v. Filip Tiago De Gama of Vedom Vasco De Gama* ((1990 1 SCC 277 : JT (1989) 4 SC 529) it has been held that the additional amount under Section 23(1-A) can only be allowed in those cases where proceedings for the acquisition of any land under the principal Act were pending on April 30, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982 in the House of People], in which no award has been made by the Collector before that date. If the Collector has made the award before that date then, the additional amount cannot be awarded. Thus it was contended that the additional benefit of interest at the rate of 12 per cent annum from the date of notification till the award made by the Collector or the date of taking over possession whichever is earlier, is liable to be set aside.

10. In order to appreciate the argument advanced by the learned counsel appearing for the Improvement Trust, it would be necessary to give a background of some important events and decisions having a bearing on the question. The Land Acquisition Act, 1894 (hereinafter referred to as 'the principal Act') was sought to be amended and in this regard on April 30, 1982, the Land Acquisition (Amendment) Bill, 1982 was introduced in Parliament. On September 24, 1984 it became law as the Land Acquisition (Amendment) Act, 68 of 1984, when it received assent of the President. Before the amendment, Section 23(2) of the principal Act provided for solatium at 15 per cent on the market value, in consideration of the compulsory nature of the acquisition. After amendment by Act 68 of solatium was raised to 30 per cent on the market value under section 23(2). A Constitution Bench in *Union of India v. Raghubir Singh* ((1989) 2 SCC 754) overruled *Bhag Singh v. Union Territory of Chandigarh* ((1985) 3 SCC 737) and *State of Punjab v. Mohinder Singh* ((1986) 1 SCC 365) held that the higher solatium at the rate of 30 per cent would be given in cases of awards made by the Collector or the court between April 30, 1982 and September 24, 1984. In the cases before us the claimants have been rightly held entitled to solatium at 30 per cent applying the ratio in the case of *Union of India v. Raghubir Singh* ((1989) 2 SCC 754).

11. So far as the award of interest at the rate of 9 per cent for the first year from the date of taking

possession and 15 per cent for the subsequent years is concerned, the claimants have been rightly held entitled to the same under Section 28 as stood amended by the Amending Act.

12. Now, the controversy which remains to be considered is with regard to the additional benefit allowed by way of rate of interest at 12 per cent per annum from the date of notification issued under Section 42 of the Punjab Town Improvement Act, 1922, till the date of award of the Collector or the date of possession of the land whichever is earlier. It is important to note that in the case of *Union of India v. Raghubir Singh* ((1989) 2 SCC 754) the above question was neither called for consideration nor decided. In *Union of India v. Filip Tiago De Gama of Vedem Vasco De Gama* ((1990) 1 SCC 277 : JT (1989) 4 SC 529) the above question directly came up for consideration before this Court. It was held that the above benefit has been provided under the amended Sections 23(1-A) and 23(2) : (SCC p. 286, para 20)

"The legislature has given new starting point for operation of Section 23(1-A) for certain cases and it would be determined from Section 30(1)(a) and (b) of the Transitional Provisions which read as follows :

30 : Transitional Provisions :

(1) The provision of sub-section (1-A) of Section 23 of the principal Act, as inserted by clause (a) of Section 15 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to :

(a) every proceeding for the acquisition of any land under the principal Act pending on the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982 in the House of the People], in which no award has been made by the Collector before that date.

(b) every proceeding for the acquisition of any land under the principal Act commenced after that date, whether or not an award has been made by the Collector before the date of commencement of this Act."

13. It was observed in the above case that Section 30(1) (a) provides that additional amount provided under Section 23 (1-A) shall be applicable to acquisition proceedings pending before the Collector as on April 30, 1982 in which he has not made the award before that date. If the Collector has made the award before that date then that additional amount cannot be awarded. We agree with the view taken in the above case. Thus applying the above principle in the cases in hand before us it would be clear that in Special Leave Petition No. 9434 of 1989 the award was made by the Land Acquisition Collector on January 6, 1979 i.e. long before April 30, 1982 and as such the claimant in the above cases is not entitled to the benefit of Section 23(1-A) as inserted in the principal Act by the Amending Act. So far as the other two special leave petitions, namely, No. 9521 of 1989 and No. 10130 of 1989 are concerned, the awards have been made by the Land Acquisition Collector on April 30, 1982 itself but not before that date. Section 30, the Transitional Provisions clearly provide that the provisions of sub-section (1-A) of Section 23 of the principal Act, as inserted by clause (a) of Section 16 of this Act shall apply to every proceeding for the acquisition of any land under the principal Act pending on April 30, 1982 in which no award has been made by the Collector before that date. In the above two cases the award has not been made by the Collector before April 30, 1982 but made on April 30, 1982 itself and as such the claimants in these two cases become entitled to the benefit of Section 23(1-A).

14. As a result of the above discussion the civil appeals in S.L.P. (C) Nos. 9521 of 1989 and 10130 of 1989 stand dismissed. So far as appeal in Special Leave Petition No. 9434 of 1989 is concerned, it is allowed in part and the order of the High Court as well as that of the President Land Acquisition Tribunal is modified only to the extent that interest shall be allowed at the rate of 6 per cent per annum instead of 12 percent per annum from the date of notification under Section 42 of the Punjab Town Improvement Act, till the award of the Collector or the date of possession of the land whichever is earlier. So far as other additional benefits granted by the President Land Acquisition Tribunal are concerned, the same would remain intact. In the facts and circumstances of the case there would be no order as to costs.

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