

State of Punjab and others

Vs

Mohinder Singh Randhawa and another

Civil Appeals Nos. 1405-06 of 1990

(CJI Ranganath Misra, M. H. Kania JJ)

02.08.1991

JUDGMENT

1. These appeals by special leave are at the instance of the State of Punjab and arise out of execution proceedings taken by the landowners to get their dues in terms of the decree made by the High Court in regard to compensation payable under the Land Acquisition Act.

2. Three contentions were canvassed at the hearing: (1) the payments stipulated under Section 23(1 A) of the Land Acquisition Act is not admissible; (2) solatium at enhanced rate of 30% cannot be calculated by taking into account the sum of money covered by Section 23(1A) of the Act; and (3) interest payable under Section 34 of the Act cannot take into account the interest component payable under the Act.

3. We find on reference to the appellate decree of High Court that it directed payment of the sum of money under Section 23(1A) of the Act. In the absence of any challenge to the appellate decree in further proceedings, in execution this is not open to challenge.

4. On the other two aspects raised, counsel for the respondents has fairly told us that the direction of the High Court cannot be sustained. Section 23(1 A) provides

"In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value....."

Sub-section (2) of Section 23 mandates:

"In addition to the market value of the land, as above provided, the Court shall in every case award a sum of thirty per centum on such market value, in consideration of the compulsory nature of the acquisition."

5. Reading the two provisions together, it follows that the amount referred to in Section 23(1 A) is not a part of the market value and, therefore, calculation of solatium would not take into account that amount.

6. Similarly in calculating interest under Section 34 of the Act, for the first year 9 per cent and for subsequent years 15 per cent is payable on the amount awarded as compensation. Interest runs on the sum payable as compensation excluding the interest component. Thus when interest for the 2nd year of default is to be calculated at 15 per cent, the interest of 9 per cent for the amount would not

be added to the compensation for calculating the interest.

7. These two contentions succeed. The appeal is allowed in part. The executing Court is directed to recalculate the dues. No costs.

Order accordingly.

</html