

S. Prabh Singh Dhillon and Others

Vs

Hoshiarpur Improvement Trust and Others

I. As. Nos. 1-5 of 1995 in Civil Appeals Nos. 3405-07 of 1995

(K. Ramaswamy, B. N. Kirpal JJ)

06.11.1995

ORDER

1. Substitution allowed.

2. This Court while disposing of the matter by order dated 20-7-1988 directed that depending upon the decision of the Constitution Bench in Union of India v. Raghbir Singh, the payment of the interest and solatium would be determined. There the Constitution Bench had concluded that the claimants would be entitled to the statutory benefits under Amendment Act 68 of 1984 if the proceedings are pending before the Land Acquisition Officer or civil court between 30-4-1982, i.e., when the Amendment Act 68 of 1984 was introduced on the floor of Parliament and the date when the Act came into force on 24-9-1984. Admittedly, the award came to be made on 30-8-1982 and the supplementary award with regard to the etc. came to be made on 27-12-1982.

3. Under these circumstances, the petitioners would be entitled to payment of solatium under Section 23(2) @ 30% per annum on enhanced compensation. As regards the payment of interest under Section 28 of the Land Acquisition Act, 1894 and the additional amount under Section 23(1-A) of that Act, admittedly, the petitioners remained in possession of the acquired land. Under Sections 34, 28 and 23(1-A) payment of interest and additional amount was intended to mitigate the hardship caused to the owner by deprivation of enjoyment of their property, after possession was taken. Since the possession was admittedly with petitioners, they are not entitled to payment of interest under Sections 34, 28 or additional amount under Section 23(1-A) as amended by Act 68 of 1984.

4. The Land Acquisition Officer will determine the amount of solatium payable to the petitioners within a period of four weeks from the date of the receipt of this order and within six weeks thereafter the amount so determined would be paid to the petitioners. Before making the payment, the petitioners shall hand over the possession to the Land Acquisition Officer.

5. The petitions are ordered accordingly. No costs.