

Union of India Through the Defence Estate Officer, Calcutta

Vs

Dulal Chandra Ghosh and Others

Civil Appeal No. 12093 of 1995

(K. Ramaswamy, B. L. Hansaria JJ)

15.12.1995

ORDER

1. Leave granted.

2. We have heard the learned counsel for both the parties. The admitted fact of the case are that the land was notified for acquisition under Section 7 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (for short 'the Act') on 10-7-1968. The Collector passed his award on 10-3-1973 and the notice was issued on Form J to the respondents. They did not accept the offer of the Collector nor they executed any agreement in terms thereof. Consequently they sought for appointment of an arbitrator under Section 8(3) read with Rule 9 of the Rules on 23-8-1977. The arbitrator came to be appointed on 5-9-1988 who made his award on 14-3-1989. He granted solatium and interest under the Land Acquisition Amendment Act 68 of 1984.

3. It is contended by Shri Nambiar, learned Senior Counsel for the Union, that in view of the ratio in Union of India v. Hari Krishan Khosla [1993 Supp (2) SCC 149 : JT (1992) 5 SC 574], the tribunal has no power and jurisdiction to award solatium and interest on the principal amount. We are in agreement with the learned counsel that the Land Acquisition Amendment Act 68 of 1984 does not apply nor does the principle of awarding solatium and interest for the lands acquired under the Act arise as the Act did not provide such a right. However, following the ratio of the same judgment of this Court in paragraph 74 following the ratio of another judgment referred to therein, i.e., Harbans Singh, Shakti Deven v. Union of India [CA No. 471 of 1985, decided on 11-02-1985], this Court, despite the non-applicability of the Amendment Act 68 of 1984, had directed payment of solatium at 30 per cent and interest at 6 per cent on the enhanced compensation from the date of the award of the Collector till the date of the deposit as a compensation for the delay caused by the Union of India in making the appointment of the arbitrator.

4. In view of the admitted facts of the case that the respondents as a fact sought reference by refusing to execute the Form J agreement and the amount offered by the Collector, and made an application on 23-8-1977 seeking appointment of an arbitrator, they would be entitled to payment of solatium at 30 per cent and interest at 6 per cent on the enhanced compensation from the date of the application for appointment of an arbitrator i.e. 23-8-1977 till the date of the award by the arbitrator, namely, 14-3-1989.

5. The appeal is accordingly disposed of. No cost.