

Union of India and Others

Vs

Sher Singh and Another

Civil Appeal No. 7668 of 1996

(K. Ramaswamy, G.B. Pattanaik JJ)

15.04.1996

ORDER

1. Leave granted.

2. We have heard learned counsel on both sides.

3. This appeal by special leave arises from the order dated 5-4-1990 of the Division Bench of the Punjab and Haryana High Court made in LPA No. 444 of 1990. The land of the respondents, along with others, admeasuring 50.55 acres situated in Village Behar Tehsil, Pathankot was requisitioned and subsequently acquired for defence purposes under the Requisitioning and Acquisition of Immovable Property Act, 1952 (for short, 'the Act'). The Land Acquisition Officer had determined the compensation at Rs. 201 per kanal. When an application was made by the respondents under Section 8 of the Act, the arbitrator in his award dated 6-12-1986 determined the compensation at Rs. 1000 per kanal. He also awarded solatium @ 30% and interest @ 9% per annum for one year from the date of taking possession and @ 15% thereafter till date of deposit. When challenged, the appeal came to be dismissed by the learned Single Judge and affirmed by the Division Bench. Thus this appeal by special leave.

4. The only question that arises for consideration is : whether the respondents are entitled to the payment of solatium and interest awarded by the arbitrator? This Court in Union of India v. Hari Krishan Khosla [1993 Supp (2) SCC 149] held that the claimants are not entitled to the solatium and interest since the Act does not provide for the payment thereof. On the last occasion when the matter had come up for hearing, this Court passed an order on 25-3-1996 directing the appellants to produce the record of K Form. A letter dated 19-12-1995 has been placed before us by the learned counsel for the appellants stating that the respondents have not received the amount under protest nor have they made any application for appointment of arbitrator within the stipulated period. We need not go into the question as regards the appointment of the arbitrator for determination of the compensation against the award of the Land Acquisition Officer since that order has become final. The only question is, whether the respondents are entitled to solatium and interest?

5. Learned counsel for the respondents sought to contend that the Act provides for determination of just compensation. All the three components form part of the determination of just compensation and that, therefore, the award passed by the arbitrator does not warrant interference. We find no force in the contention. Determination of just compensation is with reference to the value of the land acquired under the Act. Since the payment of solatium and interest is in addition to the compensation determined under the Act, this Court in Hari Krishan Khosla case [1993 Supp (2) SCC 149] had held that the arbitrator is devoid of jurisdiction to award solatium and interest. Under

these circumstances, the High Court was not right in upholding payment of solatium and interest.

6. The appeal is allowed to the extent of awarding of solatium and interest and with respect to determination of compensation @ Rs. 1000 per kanal the order of the High Court stands upheld. No costs.