

Union of India

Vs

Swaran Singh and Others

Civil Appeals Nos. 9497-98 of 1996

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

08.07.1996

ORDER

1. Delay condoned.
2. Leave granted.
3. Substitution allowed.
4. We have heard learned counsel on both sides.
5. These appeals by special leave arise from the judgment and order dated 30-8-1994 made in Civil Revisions Nos. 2144-45 of 1994 by the Punjab and Haryana High Court. The admitted position is that notification under Section 4(1) of the Land Acquisition Act, 1894 (1 of 1894) (for short "the Act") was published on 10-6-1977 acquiring a large tract of land for extension of Amritsar Cantonment at Village Kala Ghanpur. The Collector made his award under Section 11 on 28-8-1978. On reference under Section 18, the Additional District Judge, Amritsar by his award and decree dated 24-12-1981 enhanced the compensation which was confirmed by the Single Judge and on appeal by the Division Bench, the special leave petitions filed in this Court were dismissed confirming the enhanced compensation.
6. On 28-7-1987 applications under Sections 151 and 152 CPC were filed in the High Court for award of enhanced solatium and interest under Section 23(2) and proviso to Section 28 of the Act as amended by Act 68 of 1984. The High Court allowed the applications. When execution applications were laid, the executing court dismissed the same on 16-10-1993, but on revision, as stated earlier, the High Court allowed them and directed execution of the enhanced solatium and interest. Thus, these appeals by special leave.
7. It is settled law that after the Reference Court has granted an award and decree under Section 26(1) of the Act which is an award and judgment under Section 26(2) of the Act or on appeal under Section 54, the only remedy available to a party is to file an application for correction of clerical or arithmetical mistakes in the decree. The award of solatium and interest would be granted on enhancement of compensation when the court finds that the compensation was not correct. It is a part of the judgment or award. Admittedly, as on that date the claimants were entitled to solatium at 15% and interest at 6%. The Amendment Act 68 of 1984 came into force as on 24-9-1984. It is settled law that if the proceedings are pending before the Reference Court as on that date, the claimants would be entitled to the enhanced solatium and interest. In view of the fact that the Reference Court itself has answered the reference and enhanced the compensation as on 24-12-

1981, the decree as on that date was correctly drawn and became final.

8. The question then is whether the High Court has power to entertain independent applications under Sections 151 and 152 and enhance solatium and interest as amended under Act 68 of 1984. This controversy is no longer res integra. In *State of Punjab v. Jagir Singh* [1995 Supp (4) SCC 626] and also in a catena of decisions following thereafter in *Union of India v. Pratap Kaur* [(1995) 3 SCC 263]; *State of Maharashtra v. Maharau Srawan Hatkar* [(1995) 3 SCC 316 : JT (1995) 2 SC 583]; *State of Punjab v. Babu Singh* [1995 Supp (2) SCC 406]; *Union of India v. Raghubir Singh* [(1989) 2 SCC 754] and *K. S. Paripoornan v. State of Kerala* [(1994) 5 SCC 593], this Court has held that the Reference Court or the High Court has no power or jurisdiction to entertain any applications under Sections 151 and 152 to correct any decree which has become final or to independently pass an award enhancing the solatium and interest as amended by Act 68 of 1984. Consequently, the award by the High Court granting enhanced solatium at 30% under Section 23(2) and interest at the rate of 9% for one year from the date of taking possession and thereafter at the rate of 15% till date of deposit under Section 28 as amended under Act 68 of 1984 is clearly without jurisdiction and, therefore, a nullity. The order being a nullity, it can be challenged at any stage. Rightly the question was raised in execution. The executing court allowed the petition and dismissed the execution petition. The High Court, therefore, was clearly in error in allowing the revision and setting aside the order of the executing court.

9. The appeals are accordingly allowed and all orders passed by the High Court after the awards had become final are a nullity and do not bind the Union of India. No costs.