

SUPREME COURT OF INDIA

State of Haryana

Vs.

Om Prakash Bhasin

C.A.No.7716 of 1994

(Dr.A.S.Anand and M.Srinivasan JJ.)

25.09.1997

ORDER

1. Delay condoned.

2. In this appeal which is directed against the judgment and order of the High Court, dated 25-3-1985, notice issued by this Court was limited to the question of solatium and interest only.

3. Notification under Section 4 of the Land Acquisition Act (hereinafter the Act) was issued on 7-10-1971. The Land Acquisition Collector made an Award giving compensation of the acquired land @ Rs. 200/- per marla. The respondent sought a reference under Section 18 of the Act against the award of the Land Acquisition Collector and the learned District Judge, Gurgaon, vide an Award, dated 10-10-1978 allowed compensation @ Rs. 10/- per square yard. The respondent challenged the award of the District Judge in the High Court. A learned single Judge, vide judgment and order dated 28-1-1981 allowed the appeal and enhanced the compensation from Rs. 10/- per square yard to Rs. 12/- per square yard. The respondent took the matter further in appeal to the Division Bench. The Division Bench further raised the compensation to Rs. 15/- per square yard. The Division

Bench also held the respondent entitled to solatium @ 30% on the increase of Rs. 3/- per square yard, besides interest @ 9% per annum for one year from the date of possession of the land and @ 15% per annum thereafter till the date of payment. The Division Bench pronounced the judgment on March 25, 1985. Hence, this appeal.

4. Mr. Prem Malhotra, learned Counsel for the appellants submits that the award of solatium @ 30% under the provisions of S. 23 (1-A) of the Act, as introduced by the Amending Act, could not have been granted to the respondent in view of the judgment of this Court in K. S. Paripoornan v. State of Kerala (1994) 5 SCC 593. It is also submitted that since the award was made prior to 1982 and even the District Judge disposed of the reference under Section 18 of the Act prior to 1982, interest @ 9% and 15% was not admissible to the respondent. Reliance in that behalf is placed on K. S. Paripoornan (II) v. State of Kerala, (1995) 1 SCC 367 : (AIR 1995 SC 581).

5. The submission made by Mr. Malhotra is well founded. Both the issues are squarely covered by the judgments, noticed above. We, therefore, accept this appeal in part and set aside the judgment and order of the High Court, dated 25-3-1985 and hold that the respondents are not entitled to grant of any solatium and that the rate of interest shall be confined to 6% per annum only. With this modification in the judgment and order of the High Court dated 25-3-1985, the appeal is disposed of. There shall, however, be no order as to costs.

Order accordingly.