

SUPREME COURT OF INDIA

Union of India (UOI)

Vs.

Asha Sharma (Smt)

C.A.No.584 of 1992

(Dr.A.S.Anand and K.Venkataswami JJ.)

01.10.1997

ORDER

1. This appeal arises out of the proceedings under the Requisitioning and Acquisition of Immovable Property Act, 1952 (for short "the Act").

2. The Arbitrator appointed under Section 8 of the Act vide award dated 29-12-1977 awarded compensation @ Rs 1800 per kanal. The Land Acquisition Collector had earlier awarded compensation @ Rs 1,062.50 per kanal. The Arbitrator also awarded solatium @ 15% and interest @ 6% from the date of acquisition till the date of making payment. On the matter being taken in appeal by the respondents, the learned Single Judge of the High Court vide judgment and order dated 6-4-1983 enhanced the compensation to Rs 200 per marla along with solatium @ 15% and interest @ 6% subject to the claim made by the respondent and the court fee paid thereon. An appeal filed by the appellant was dismissed by the Division Bench. Subsequently, a special leave petition filed in this Court by the appellant also came to be dismissed on 19-12-1985. It appears that the respondents had also filed a special leave petition in this Court. That special leave petition was allowed and the respondents were permitted to make good deficiency in court fee for enhancement of compensation made by the learned Single Judge on 6-4-1983. After making good the deficiency in court fee, the respondents filed an appeal before the Division Bench of the High Court against the judgment and order of the learned Single Judge dated 6-4-1983. The Division Bench enhanced the compensation from Rs 200 per marla to Rs 350 per marla by the impugned order dated 3-9-1991. The Division Bench also granted solatium @ 30% and interest @ 9% for the first year and at the rate of 15% per annum thereafter. Aggrieved, the appellant has come to this Court.

3. Since, the appellant in its earlier SLP had also questioned the grant of solatium @ 15% and interest @ 6% in this Court and their plea failed on 19-12-1985, it is not permissible for them now to reopen the issue relating to the grant of solatium @ 15% and interest @ 6% per annum. The principle of res judicata applies. The appeal, therefore, has to be considered keeping this position in view.

4. Insofar as the enhancement of the rate of compensation from Rs 200 to Rs 350 per marla as directed by the Division Bench is concerned, in our opinion it is no longer open to challenge in view of the law laid down by this Court in Union of India v. Shankar Singh, Cas Nos. 1320-22 of 1990. The challenge to the enhancement of compensation from Rs 200 per marla to Rs 350 per marla, therefore, must fail.

5. So far as the enhancement of solatium to 30% and interest @ 9% for the first year and @ 15% per annum thereafter is concerned, the three-Judge Bench of this Court in Union of India v. Hari Krishan Khosla, 1992(2)SCALE621 has laid down that there is no provision under the Act for grant of solatium or interest. Therefore, the enhancement of solatium from 15% to 30% and interest from 6% to 9% and 15% thereafter as granted by the Division Bench cannot be sustained. The appeal, therefore, succeeds to the limited extent that the enhanced solatium from 15% to 30% and the enhanced interest from 6% to 9% and 15% thereafter as granted by the Division Bench is set aside.

6. The appeal is partly allowed and disposed of in the above terms. No costs.