

SUPREME COURT OF INDIA

D.D.A.

Vs.

Mahender Singh

C.A.No.1751 of 2009

(Dr. Arijit Pasayat and Asok Kumar Ganguly JJ.)

20.03.2009

JUDGEMENT

Dr.Arijit Pasayat, J.

1. Leave granted.

2. Challenge in these appeals is to the judgment of a Division Bench of the Delhi High Court allowing the Writ Petitions filed by respondents under Article 226 of the *Constitution of India, 1950* (in short the `Constitution').

“3. Prayer in the writ petitions was to direct the present appellant to make payment of statutory interest under Section 34 of the *Land Acquisition Act, 1894* (in short the `Act') for the acquisition of the land in terms of the award No.3/1997-98 dated 10.12.1997. The appellant resisted the claim on the ground that such a prayer cannot be accepted in the writ petitions. The High Court, however, held that the writ applications were to be allowed.

Accordingly, it directed the respondents in the writ petitions including the present appellant to pay the interest payable to the claimants in terms of Section 34 of the Act and pay costs of Rs.10,000/- .”

3. In support of the appeals, learned counsel for the appellant submitted that the direction given by the High Court is clearly contrary to a Full Bench judgment of the Delhi High Court in *Net Ram and Anr. v. Union of India and Ors.*¹.

4. Learned counsel for the respondents on the other hand supported the judgment and submitted that in the background of public accountability which has been highlighted by the High Court, the relief has been rightly granted.

5. The Act is a complete Code and lays down detailed procedure for acquisition of land, payment of compensation including solatium and additional market value. It is to be noted

that under Section 34 interest @9&percent; from the date of taking over the possession till payment for the first year @15&percent; for subsequent years is payable. Section 28 is the only other provision which deals with the award of interest. The said provision empowers the Court to award interest on the excess amount awarded over and above the amount awarded by the Collector.

6. Sections 28 and 34 read as follows:

“28. Collector may be directed to pay interest on excess compensation-If the sum which in the opinion of the court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of (nine percentum) per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

34. Payment of interest- When the amount of such compensation is not paid or deposited on or before 3 taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

(Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of 15&percent; per annum shall be payable from that date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.”

7. There is no dispute that apart from Sections 28 and 34 which deal with payment of interest to persons entitled to receive compensation, there is no other provision envisaging payment of interest. Collector, Land Acquisition is liable to pay interest on statutory rates to such persons only when possession has been taken over before the payment of the entire compensation to them under Section 34. In *Union of India v. Budh Singh* (1995 (6) SCC 233,) this Court had the occasion to deal with Sections 28 and 34 and it was observed that these were the only provisions which deal with the payment of interest to land owners. While considering the scope and ambit of the Sections, this Court observed:

“Thus, it could be seen that the statute covers the entire field of operation of the liability of the State to make payment of interest and entitlement thereof by the owner when land has been taken over and possession in consequence thereof, the land owner was deprived of the enjoyment thereof. Thus, it could be seen that the Court has no power to impose any condition to pay interest in excess of the rate and manner prescribed by the statute as well as for a period”

8. Similar view was expressed in *State of Himachal Pradesh v. Dharam Das*². It was held that when the statute provides for payment of interest to the land owners, a Court has no power to award interest in a manner other than the one prescribed by the statute. It was

specifically observed that there is no other provision empowering the Court to award interest on equitable ground as equitable consideration has no role to play in determination of the compensation and the manner of awarding interest as enjoined under the Act. The same has to be administered in the manner laid in the Act and in no other way. As a concomitance, the equity jurisdiction of the court is taken out and the Act enjoins the Court to grant interest as per the statutory rates specified in the Act. A plea was taken in a case before this Court in a matter relating to Jammu and Kashmir Requisitioning and Acquisition of Immovable Property Act, 1968 which omitted provision for payment of solatium and interest, that in spite of the absence of the provision for solatium and interest in the said Act, the State was bound to pay solatium and interest to the land owners on equitable grounds. This Court negated the contention. It was observed that there was no substance in the plea that by legislative omission to pay solatium the State enriches itself unjustly at the expense of the private party. (See *Union of India v. Dhanwanti Devi and Ors.*³. In *Ashok Nagar Plot Holders Association v. State of U.P.*⁴ this Court again observed that liability to pay interest to the claimant arises only in accordance with Section 34 of the Act. As the Act is a self-contained Code, common law principles of justice, equity and good conscience cannot be extended in awarding interest, contrary to or beyond provisions of the statute.

9. In view of what has been indicated above, the conclusion is irresistible that while exercising jurisdiction under Article 226 of the Constitution there is no scope for direction to pay interest in a manner not contemplated by either Section 28 or 34.

10. In view of the above the appeals deserve to be allowed which we direct. The impugned judgments of the High Court are set aside.

¹(86 (2000) DLT 606)

²(1995 (5) SCC 683)

³(1996 (5) SCC 44)

⁴(1997 (10) SCC 77)