

SUPREME COURT OF INDIA

Chhanga Singh

Vs.

Union of India

C.A.No.4322 of 2012

(Jagdish S.Khehar and B.S.Chauhan, JJ.)

08.05.2012

ORDER

Jagdish S.Khehar, J.

1. Leave granted.
2. The controversy in this appeal lies in a very narrow compass. The sole issue involved herein is as to whether the appellants are entitled for interest over the amount of solatium granted to them.
3. Admitted facts necessary to adjudicate upon the controversy in this appeal are that:

“I. The land of the appellants stood notified under Section 4 of the Land acquisition Act, 1894 (hereinafter being referred to as the Act) on 30th October, 1963. In respect of the said land, Declaration under Section 6 of the Act was made on 16th January, 1969.

II. Compensation was awarded under Section 11 of the Act on 17th September, 1986 assessing the market value of the land @ Rs.4350 per bigha. Being aggrieved, the appellants made an application for reference under Section 18 of the Act, and the Reference Court vide award dated 1st June, 2001 assessed the market value of the land @Rs.16,750/- per bigha and awarded the solatium as provided under the Act. However, interest was not awarded on the amount of solatium and it restricted only to the enhanced amount of compensation.

III. The appellants filed the execution petition on 3rd September, 2001.

IV. It was during the pendency of the execution proceedings, this Court decided the matter in *Sunder v. Union of India*¹ on 19th September, 2001 explaining that persons-interested like the appellants are also entitled for interest on amount of solatium.”

4. So far as this case is concerned, the respondents made the payment as per the award of the Reference Court dated 1st June, 2001 on 15th April, 2004 partly. The appellants filed an application on 6th May, 2004 for claiming the balance amount including the interest on solatium. The Execution Court rejected the said application vide order dated 22nd November, 2006 which was challenged unsuccessfully before the High Court by the appellants as the High Court rejected their claim for the said relief vide impugned judgment and order dated 10th September, 2008. Hence, this appeal.

5. We have heard learned counsel for the parties and gone through various judgments.

6. However, learned counsel for the appellants have placed a very heavy reliance on the judgment of this Court in *Gurpreet Singh v. Union of India*² wherein the legal position in this regard has been explained as under:

“One other question also was sought to be raised and answered by this Bench though not referred to it. Considering that the question arises in various cases pending in courts all over the country, we permitted the counsel to address us on that question. That question is whether in the light of the decision in *Sunder*, the awardee/deeree-holder would be entitled to claim interest on solatium in execution though it is not specifically granted by the decree. It is well settled that an execution court cannot go behind the decree. If, therefore, the claim for interest on solatium had been made and the same has been negatived either expressly or by necessary implication by the judgment or decree of the Reference Court or of the appellate court, the execution court will have necessarily to reject the claim for interest on solatium based on *Sunder* on the ground that the execution court cannot go behind the decree. But if the award of the Reference Court or that of the appellate court does not specifically refer to the question of interest on solatium or in cases where claim had not been made and rejected either expressly or impliedly by the Reference Court or the appellate court, and merely interest on compensation is awarded, then it would be open to the execution court to apply the ratio of *Sunder* and say that the compensation awarded includes solatium and in such an event interest on the amount could be directed to be deposited in execution. Otherwise, not. We also clarify that such interest on solatium can be claimed only in pending executions and not in closed executions and the execution court will be entitled to permit its recovery from the date of the judgment in *Sunder* (19-9-2001) and not for any prior period. We also clarify

that this will not entail any reappropriation or fresh appropriation by the decree-holder. This we have indicated by way of clarification also in exercise of our power under Articles 141 and 142 of the Constitution of India with a view to avoid multiplicity of litigation on this question. While deciding the said case, this Court has considered and explained the judgment in *Sunder* (Supra).

7. The view taken by the Constitution Bench has consistently been re-iterated and followed by this Court as is evident from the judgments in *Land Acquisition Officer and Assistant Commissioner & Anr. v. Shivappa Mallappa Jigalur & Ors*³*Nadirsha Shapurji Patel (dead) by Lrs. & Ors. v. Deputy Collector & Land Acquisition Officer & Anr*⁴*and Iyasamy & Anr. v. Special Tahsildar, Land Acquisition*⁵.

8. In view of the above, the submissions of the appellants are worth acceptance. The appeal is accordingly allowed. The respondents are directed to make the payment of interest on the solatium as per the law laid down in *Gurpreet Singh* (Supra) within a period of three months from today.

Judgment Referred

¹(2001) 7 SCC 0211

²(2006) 8 SCC 0457

³(2010) 12 SCC 0387

⁴(2010) 13 SCC 0234

⁵(2010) 10 SCC 0464