

SUPREME COURT OF INDIA

Ismail Hushen Ghanchi

Vs.

National Highways Authority of India

C.A.No.18744-18745 of 2017

(Kurian Joseph and R.Banumathi,JJ.,)

14.11.2017

JUDGMENT

Kurian Joseph,J.,

SLP(Civil)No.32180-32181 of 2016

1. Delay condoned.
2. Issue notice to Respondent No.1 in Diary No.23978/2017. Notice need not be issued to Respondent No.2, being a proforma respondent.
3. Ms. Jaikriti S. Jadeja, learned counsel, appears and accepts notice for Respondent No.1 in Diary No.23978/2017.
4. Leave granted.
5. The appellants are before this Court aggrieved by the award of compensation in respect of the land acquired along with the fruit-bearing trees. In the High Court, purportedly on the basis of a submission made by the learned counsel, the land value, as enhanced by the Reference Court, was sustained but the compensation in respect of the trees was reduced to 20%. According to the learned counsel for the appellants, it should have been reduced only by 20% and that was what had been submitted. Be that as it may, as an attempt for review also was in vain, we do not want to send back the matters to the High Court.
6. When the matters came up before this Court on 7.11.2017, this Court passed the following order:-

"In a petition of compensation for the acquisition of land, the Award can be passed either on the basis of the income one would earn from the fruit bearing trees or on the basis of the market value of the land plus the value of the crops of that particular year.

In view of the extent of land of some of the petitioners herein being very small, learned counsel for the petitioners submits that he may be given some time to ascertain whether the petitioners would like to choose the calculation based on the income from the trees.

List on 14.11.2017 as first item."

7. Learned counsel for the appellants, on instruction, submits that since the holding is very small and since the people have been dependent on the income from the fruit-bearing trees they would go by the calculation on the basis of income from the fruit-bearing trees.

8. The above submission is recorded.

9. Accordingly, these appeals are disposed of as follows:

(i) The compensation in respect of the land acquired from the appellants shall be worked out only on the basis of the calculation based on the return from the fruit-bearing trees, as calculated by the Reference Court.

(ii) On the compensation thus calculated, the appellants shall be entitled to additional compensation and solatium.

(iii) The appellants shall also be entitled to interest under Section 28 of the Land Acquisition Act, 1984 on the entire compensation thus worked out in terms of para (i) and (ii) above.

(iv) Learned counsel appearing for the Respondent/National Highway Authority of India points out that the appellants have already received compensation on the basis of the calculation based on land value.

(iv) We make it clear that in case any of the appellants have received any compensation on the basis of the calculation based on land value, the amount shall be adjusted from the date of receipt along with 15% interest thereon, while granting the compensation. We further make it clear that in case the compensation awarded is deposited in Court, there shall be no adjustment of interest.

(v) Needless to say that compensation necessarily includes solatium and interest on the amount.

10. Pending applications, if any, shall stand disposed of.

11. There shall be no orders as to costs.