

S. PRABHA SINGH DHILLON ETC. ETC.

A

v.

HOSHIARPUR IMPROVEMENT TRUST AND ORS.

NOVEMBER 6, 1995

[K. RAMASWAMY AND B.N. KIRPAL, JJ.]

B

Land Acquisition Act, 1894 as amended by Act 68 of 1984.

Ss.23(1-A), 23(2), 28, 34—Land under acquisition—Possession with owners—Held, land owners entitled to solatium @ 30% on enhanced compensation, but not entitled to interest under Ss.34 and 28 or additional amount under S.23(1-A) as they were in possession of the land.

C

This Court, while deciding the appeals, had directed that payment of interest and solatium would be determined in accordance with the decision in *Raghubir Singh's* case.*

D

Disposing of the applications, this Court

HELD: The petitioner would be entitled to payment of solatium under S.23(2) of the Land Acquisition Act, 1894 @ 30% per annum on enhanced compensation. As regards the payment of interest under Ss.34 and 28 or additional amount under S.23 (1-A) of the Act, as amended by Act 68 of 1984, the petitioners are not entitled to the same as these provisions were made to mitigate the hardship caused to the owners by deprivation of enjoyment of their property, and in the instant case possession of the land under acquisition was admittedly with the petitioners. [792-E-F]

E

**Union of India v. Raghubir Singh, [1989] 3 SCR 316, referred to.*

F

CIVIL APPELLATE JURISDICTION : I.A. Nos. 1-5 of 1995.

IN

G

Civil Appeal Nos. 3405-07 of 1995.

From the Judgment and Order dated 26.5.88 of the Punjab & Haryana High Court in L.P.A. No. 491 of 1988.

Har Dev Singh and R.K. Agnihotri for the Appellants.

H

A V.C. Mahajan, R.C. Mishra and Dr. Meera Aggarwal, for the Respondents.

The following Order of the Court was delivered :

Substituted allowed.

B This Court while disposing of the matter by order dated July 20, 1988 directed that depending upon the decision of the Constitution Bench in *Union of India v. Raghbir Singh*, [1989] 3 SCR 316, the payment of the interest and solatium would be determined. Since there the Constitution Bench had concluded that the claimants would be entitled to the statutory benefits under Amendment Act 68 of 1984 if the proceedings are pending before the Land Acquisition Officer or Civil Court between April 30, 1984, i.e., when the Amendment Act 68 of 1984 was introduced on the floor of the Parliament and the date when the Act came into force in September 24, 1984. Admittedly, the award came to be made on August 30, 1982 and the supplementary award with regard to the trees etc., came to be made on December 27, 1982.

D Under these circumstances, the petitioners would be entitled to solatium under Section 23 (2) @ 30% per annum enhanced compensation. As regards the payment of interest under Section 28 of the Land Acquisition Act, 1894 and the additional amount under Section 23 (1-A) of that Act, admittedly, the petitioners remained in possession of the acquired land. Under Sections 34, 28 and 23 (1-A) payment of interest and additional amount was intended to mitigate the hardship caused to the owner by deprivation of enjoyment of their property, after possession was taken. Since the possession was admittedly with the petitioners, they are not entitled to payment of interest under Sections 34, 28 or additional amount under Section 23(1-A) as amended by Act 68 of 1984.

E The Land Acquisition Officer will determine the amount of solatium payable to the petitioners within a period of four weeks from the date of the receipt of this order and within six weeks thereafter the amount so determined would be paid to the petitioners. Before making the payment, the petitioners shall hand over the possession to the Land Acquisition Officer.

G The petitions are ordered accordingly. No costs.

R.P.

Petitions disposed of.