

PETITIONER:
THE STATE OF PUNJAB & ANR.

Vs.

RESPONDENT:
JAGIR SINGH ETC.

DATE OF JUDGMENT 30/10/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1995 SCC Supl. (4) 626 JT 1995 (9) 1
1995 SCALE (6) 314

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Though respondents have been served, none is appearing.
Leave granted.

The award of the Additional District Judge is dated March 2, 1978. When the State had gone in appeal against the award, while dismissing the appeals the High Court of Punjab and Haryana at Chandigarh had granted additional benefits under the Land Acquisition (Amendment) Act, 1894. Sub-section (1) of s.23 of the Land Acquisition Act, 1894 (for short, 'the Act') envisages determination of the amount of compensation to be awarded to the amount of compensation to be awarded to the acquired land. Sub-section (1A) envisages that "in addition" to the market value of the land, as above provided, the Court shall in every case award an amount calculated @ 12 per centum per annum on such market value for the period commencing on from the date of the publication of the notification under s.4(1) to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier. Sub-section (2) also provides that "in addition" to the market value of the land, as above provided, the Court shall in every case award a sum of 30 per centum on such market value in consideration of the compulsory nature of acquisition.

Section 28 envisages that 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, it enjoins the Court that the Collector 'shall pay on such excess' compensation interest @ nine per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court. Under the proviso, if such excess or any part thereof is paid into Court after the date of expiry period of one year from the date on which possession is taken, interest @ 15 per centum per annum shall be payable from the dated of expiry of the said period of one year on the amount

of such excess.

It would thus be seen that the legislative animation is clear that the Civil Court on reference under Section 18, or the High Court or in some States District Judge exercising appellate power under s.54 or civil court under Section 26, as the case may be, awards compensation in excess of the amount awarded by the Collector, then it gets jurisdiction and power to award additional benefits envisaged in sub-section (1A) of s.23, sub-section (2) of s.23 and s.28 of the Act. In other words, enhancement of the compensation in excess of the award of the Collector under Section 11 is a condition precedent to exercise the power to award statutory additional amount envisaged under the aforesaid respective provisions on the excess compensation. If the High Court dismisses the appeal confirming the award of the Collector or that of the civil court, then it has no jurisdiction and power to award additional statutory amount under the respective provisions as amended under the Amendment Act 68 of 1984. This Court held the same view in *Union of India vs. Smt. Pratap (Kaur) through Lrs. & Anr. etc.* [J.T. 1995 (2) SC 569], *State of Maharashtra vs. Maharau Srawan Hatkar* [J.T. 1995 (2) SC 583] and *The State of Punjab * Anr. etc. vs. Babu Singh & Ors. etc.*, [CA Nos. 3287-95/95 @ SLP (C) No. 2207-15 of 1979] decided on February 28, 1995.

Moreover, the Constitution Bench of this Court in *Union of India vs. Raghubir Singh* [1989 (2) SCC 754] and *K.S. Paripoornan vs. State of Kerala* [1994 (5) SCC 593] covered the entire gamut of controversy and entitlement under Sections 23(1A), 23(2) and 28.

The High Court, therefore, has no power to award the statutory benefits under Sections 23(1A), 23(2) and 28 while confirming the decree of the Reference Court. The appeals are accordingly allowed and the additional benefits awarded are set aside. However, the claimants are entitled to solatium @ 15% and interest @ 6% on the enhanced compensation made by the Reference Court. The award of the District Judge as confirmed by the High Court stands upheld with the above modification. The appeals are allowed but in the circumstances without costs.