

PETITIONER:
SHRI KISHAN DAS & ORS.

Vs.

RESPONDENT:
THE STATE OF U.P. & ORS.

DATE OF JUDGMENT 12/09/1995

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

CITATION:
1996 AIR 274 1995 SCC (6) 240
JT 1995 (7) 158 1995 SCALE (5) 567

ACT:

HEADNOTE:

JUDGMENT:

W I T H
C.M.P. NO.3 910 OF 1986.
O R D E R

This appeal by special leave arises from the judgment dated August 30, 1979 of the Division Bench of the Allahabad High Court in C.M.W. No.35/1977. Notification under Section 4(1) of the Land Acquisition Act, 1894 [for short, 'the Act'] was published in the Gazette on September 29, 1976. Declaration under Section 6 was made on September 30, 1976. While issuing the notification under Section 4(1) of the Act, the Government exercised the power under Section 17(4) of the Act and dispensed with the September 1976. Therefore, the appellants should be compensated by payment of interest @ 12 per cent per annum. In support of his contention, he placed reliance on the decision of this Court in Ram Chand & Ors. vs. Union of India & Ors. [(1994) 1 SCC 44] and in particular on paragraph 16 of the judgment. It is seen that in Ram Chander's case even after the dismissal of the writ petitions by this Court in Aflaton vs. Lt. Governor of Delhi [(1975) 4 SCC 285], no action was taken by the Land Acquisition Officer to pass the award. Thus, till 1980-81 no award was made in respect of any of the acquisitions. Under these circumstances, this Court had directed the Government to pay interest @ 12 per cent on the amount awarded to compensate the loss caused to the appellants therein. In this case, it is seen that though the notification was issued in September 1976, the writ petitions came to be filed in the High Court immediately thereafter in 1977 in the High Court and obviously further proceedings were stayed. Accordingly, the Land Acquisition Officer delayed the award. After the dismissal of the writ petitions, the appellants came to this Court and obtained status quo. Obviously, the Land Acquisition Officer was not in a position to pass the award immediately. Thereafter, it would

appear that he passed the award on March 22, 1983. Section 34 of the Act obligates the State to pay interest from the date of taking possession under the unamended Act @ 6 per cent and after the Amendment Act 68 of 1984 at different rates mentioned therein. The liability of the State to pay interest ceases with the deposit made as per Section 34 of the Act. Further liability would arise only when the court on reference under Section 18 enhances the compensation under Section 28 of the Act. Similarly, in an appeal under Section 54 of the Act if the appellate court further increases the compensation, then again similar obligation under Section 28 arises.

In the light of the operation of the respective provisions of Sections 34 and 28 of the Act, it would be difficult to direct payment of interest. In fact, Section 23 (1-A) is a set off for loss in cases of delayed awards to compensate the person entitled to receive compensation; otherwise a person who is responsible for the delay in disposal of the acquisition proceedings will be paid premium for dilatory tactics. It is stated by the learned counsel for the respondents that the amount of interest was also calculated and total amount was deposited in the account of the appellants by the Land Acquisition Officer after passing the award, i.e., on November 15, 1976 in a sum of Rs.20,48,615/-. Under these circumstances, the liability to pay interest would arise when possession of the acquired land was taken and the amount was not deposited. In view of the fact that compensation was deposited as soon as the award was passed, we do not think that it is a case for us to interfere at this stage.

The appeal is accordingly dismissed. No costs.