

PETITIONER:
HOSHIARPUR IMPROVEMENT TRUST

Vs.

RESPONDENT:
PRESIDENT LAND ACQUISITION TRIBUNAL AND OTHERS.

DATE OF JUDGMENT 19/04/1990

BENCH:
KASLIWAL, N.M. (J)
BENCH:
KASLIWAL, N.M. (J)
KULDIP SINGH (J)

CITATION:
1990 SCR (2) 526 1990 SCC (2) 625
JT 1990 (2) 567 1990 SCALE (1) 94

ACT:

Land Acquisition Act, 1894 (As amended by Act 68 of 1934): Section 23(1-A)--Additional Benefit of interest @ 12 --Entitlement to--Pendency of acquisition proceedings before Collector on 30th April, 1982 is essential--Benefit is inapplicable to awards made before 30th April, 1982.

Section 23(2)--Enhanced solatium @ 30 --Held applicable to awards made by Collector or Court between 30th April, 1982 and 24th September, 1984.

HEADNOTE:

The lands of the respondents were acquired for a scheme of the Appellant-Improvement Trust. The awards for compensation were made by the Collector on 6th January, 1979 and 30th April, 1982 and the reference was disposed of by the Land Acquisition Tribunal by its award dated 28th March, 1983 and 29th August, 1985 by granting solatium @ 15% on compensation and interest @ 6% on excess compensation.

In view of the Land Acquisition (Amendment) Act, 1984 the landowner-claimants made an application to the Tribunal seeking enhanced solatium and interest under the amended provisions of Land Acquisition Act, 1894. The Tribunal allowed the application by granting higher solatium, additional benefit of interest and interest on excess compensation.

The writ petitions filed by the Appellant-Improvement Trust against the decision of the Tribunal were dismissed. Hence these appeals by the Improvement Trust.

Allowing the appeal in part (C.A. No. 1894 of 1990) and dismissing the connected appeals, this Court,
HELD: 1. The benefit of higher solatium @ 30% under section 527

23(2) of the Land Acquisition Act, 1894 is applicable to cases of awards made by the Collector or the Court between 30th April, 1982 and 24th September, 1984. In the instant case since the awards were made between the aforesaid dates the claimants have been rightly held entitled to enhanced solatium. [530E]

Union of India v. Raghubir Singh, [1989] 2 SCC 754, followed.

2. Section 30(1)(a) of the Land Acquisition (Amendment) Act, 1984 clearly provides that the additional amount of

interest provided under Section 23(1-A) of the Land Acquisition Act, 1894 shall be applicable to acquisition proceedings pending before the Collector as on 30th April, 1982 in which he has not made the award before that date. If the Collector has made the award before that date then additional amount cannot be awarded. [531E]

2.1 The claimant in the Appeal (No. 1894 of 1990) is not entitled to additional benefit of interest under Section 23(1-A) because the award in this case was made long before 30th April, 1982. But the claimant in the connected appeals are entitled to this benefit since in their cases the awards were made on 30th April, 1982 itself. [531F; 532A]

Union of India v. Raghubir Singh, [1989] 2 SCC 745, explained and held inapplicable.

Union of India v. Filip Tiago De Gama, J.T. 1989 4 S.C. 529, followed.

3. The award of interest on excess compensation is valid since the claimants were entitled to the same under section 28 as it stood amended by the Amending Act. [530F]

4. The order of the High Court and the Land Acquisition Tribunal in Civil Appeal No. 1894 of 1990 is therefore modified, only to the extent that interest shall be allowed at the rate of 6% per annum instead of 12% per annum. The other additional benefits granted by the Tribunal shall remain in tact. [532B-C]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1894, 1895 & 1896 of 1990.

From the Judgment and Order dated 9.2.1989 of the Punjab & Haryana High Court in Civil W.P. Nos. 1778, 1776 & 1777 of 1989.

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Balbir Singh Wasu, N.S. Das Bahl for the Appellant.

Har Dev Singh and Ms. Madhu Moolchandani for the Respondents.

The Judgment of the Court was delivered by

KASLIWAL, J. Special leave granted.

All these petitions by Special leave are disposed of by one single order as identical questions of law are involved and they are directed against the similar order of the High Court dated 9th February, 1989.

Short controversy raised in these cases is regarding the grant of benefits under amended Sections 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894 as amended by the Land Acquisition (Amendment) Act, 1984 (hereinafter referred to as the Amending Act). The President Land Acquisition Tribunal, Hoshiarpur (District Court) initially granted solatium at 15% on the compensation and interest at 6% per annum on the additional amount of compensation till the date of payment. The claimants 'submitted an application for modification of the award as regards solatium and interest in view of the Amending Act which came into force on 24th September, 1984. The Land Acquisition Tribunal granted benefit of the Amending Act and modified the award by passing the following operative order which is subject matter of challenge in Special Leave Petition No. 9434 of 1989. Similar orders have been passed in other two cases also.

"Accordingly, I modify the award to the extent that solatium shall be payable at the rate of 30% instead of 15% granted earlier. Similarly, interest at the rate of 12% per annum is granted from the date of notification under Section 42 of the Punjab Town Improvement Act, 1922, till the date of

award of the Collector, the date of possession of the land which ever is earlier. Further interest is awarded at the rate of 9% per annum on the enhanced amount from the date of delivery of possession till the expiry of one year. Thereafter interest is awarded at the rate of 15% per annum from the date of expiry of period of one year till payment. The applicant shall be entitled to recover the solatium and interest as per the modification indicated above ' '.

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Aggrieved against the above order, the Hoshiarpur Improvement Trust has come before this Court.

In order to decide the controversy, it would be necessary to mention some important dates in each of the above cases.

In Special Leave Petition No. 9434 of 1989 the award was given by the Land Acquisition Collector on 6th January, 1979. On a reference the award was given by the President Land Acquisition Tribunal, Hoshiarpur on 28th March, 1983. The award was modified by the President Land Acquisition Tribunal by order dated 29th August, 1988. The High Court dismissed the Writ Petition filed by the Improvement Trust on 9th February, 1989.

In Special Leave Petition No. 9521 of 1989 the award was given by the Land Acquisition Collector on 30th April, 1982. On a reference the award was given by the President Land Acquisition Tribunal, Hoshiarpur on 29th August, 1985. The President Land Acquisition Tribunal modified the award by order dated 29th August, 1988. The Writ Petition filed by the Improvement Trust was dismissed by the High Court on 9th February, 1989.

In Special Leave Petition No. 10 130 of 1989 the award was given by the Land Acquisition Collector on 30th April, 1982. On a reference the award was given by the President Land Acquisition Tribunal, Hoshiarpur on 29th August, 1985. The award was modified by the President Land Acquisition Tribunal by order dated 14th September, 1988. Writ Petition filed by the Improvement Trust was dismissed by the High Court on 9th February, 1989.

Learned Counsel appearing on behalf of the Improvement Trust contended that no benefit could have been given under Section 23(1-A) which was inserted by the Amending Act. It was contended that in a recent decision given by this Court in Union of India & Ors. v. Mr. Filip Tiago De Gama of Vedem Vasco De Gama, JT 1989 4 SC 529 it has been held that the additional amount under Sec. 23(1-A) can only be allowed in those cases where proceedings for the acquisition of any land under the Principal Act were pending on the 30th day of April, 1982 (the date of introduction of the Land Acquisition (Amendment) Bill 1982 in the House of People), in which no award has been made by the Collector before that date. If the Collector has made the award before that date then, the additional amount cannot be awarded. Thus it was contended that the additional benefit of interest

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at the rate of 12% per annum from the date of notification till the award made by the Collector or the date of taking over possession which ever is earlier, is liable to be set aside.

In order to appreciate the argument advanced by the Learned counsel appearing for the Improvement Trust, it would be necessary to give a background of some important events and decisions having a bearing on the question. The Land Acquisition Act, 1894 (hereinafter referred to as the Principal Act) was sought to be amended and in this regard on 30th April, 1982, the Land Acquisition (Amendment) Bill,

1982 was introduced in Parliament. On 24th September, 1984 it became law as the Land Acquisition (Amendment) Act, 68 of 1984, when it received assent of the President. Before the amendment, Section 23(2) of the Principal Act provided for solatium at 15% on the market value, in consideration of the compulsory nature of the acquisition. After amendment by Act 68 of 1984 solatium was raised to 30% on the market value under Section 23(2). A Constitution Bench in Union of India & Another v. Raghubir Singh (dead) by L.rs. etc., [1989] 2 SCC 754, overruled; Bhag Singh v. Union Territory of Chandigarh, [1985] 3 SCC 737 and State of Punjab v. Mohinder Singh, [1986] 1 SCC 365 held that the higher solatium at the rate of 30% would be given in cases of awards made by the Collector or the Court between 30th April, 1982 and 24th September, 1984. In the cases before us the claimants have been rightly held entitled to solatium at 30% applying the ratio in the case of Union of India & Ors. v. Raghubir Singh, (supra).

So far as the award of interest at the rate of 9% for the first year from the date of taking possession and 15% for the subsequent years is concerned, the claimants have been rightly held entitled to the same under Section 28 as stood amended by the Amending Act.

Now, the only controversy which remains to be considered is with regard to the additional benefit allowed by way of rate of interest at 12% per annum from the date of notification issued under Section 42 of the Punjab Town Improvement Act, 1922, till the date of award of the Collector or the date of possession of the land which ever is earlier. It is important to note that in the case of Union of India v. Raghubir Singh, (supra) the above question was neither called for consideration nor decided. In Union of India & Ors. v. Mr. Filip Tiago De Gama of Vedem Vasco De Gama, (supra) the above question directly came up for consideration before this Court. It was held that the above benefit has been provided under the amended Sections 23(i-A) & 23(2).

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The Legislature has given new starting point for operation of Section 23(1-A) for certain cases and it would be determined from Section 30(1)(a) & (b) of the Transitional Provisions which read as follows:

Section 30: Transitional Provisions:

(1) The provision of Sub-section (1-A) of Section 23 of the Principal Act, as inserted by clause (a) of Section 16 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to:

(a) every proceeding for the acquisition of any land under the Principal Act pending on the 30th day of April, 1982 (the date of introduction of the Land Acquisition (Amendment) Bill 1982 in the House of the People), in which no award has been made by the Collector before that date.

(b) every proceeding for the acquisition of any land under the principal Act commenced after that date, whether or not an award has been made by the Collector before the date of commencement of this Act".

It was observed in the above case that Section 30(1)(a) provides that additional amount provided under Sec. 23(1)(a) shall be applicable to acquisition proceedings pending before the Collector as on 30th April, 1982 in which he has not made the award before that date. If the Collector has made the award before that date then that additional amount cannot be awarded. We agree with the view taken in the above case. Thus applying the above principle in the cases in hand before us it would be clear that in Special Leave Petition

No. 9434 of 1989 the award was made by the Land Acquisition Collector on 6th January, 1979 i.e. long before 30th April, 1982 and as such the claimant in the above case is not entitled to the benefit of Section 23(1-A) as inserted in the Principle Act by the Amending Act. So far as the other two Special Leave Petitions, namely, 9521/89 and 10130/89 are concerned, the awards have been made by the Land Acquisition Collector on 30th April, 1982 itself but not before that date. Section 30 the Transitional Provisions clearly provide that the provisions of Subsection (1-A) of Section 23 of the Principle Act, as inserted by Clause (a) of Section 16 of this Act shall apply to every proceeding for the acquisition of any land under the Principle Act pending on 30th day of April, 1982 in which no award has been made by the Collector before

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that date. In the above two cases the award has not been made by the Collector before 30th day of April, 1982 but made on 30th April, 1982 itself and as such the claimants in these two cases become entitled to the benefit of Section 23(1-A).

As a result of the above discussion the civil appeals in S.L.P. (C) Nos. 952 1 of 1989 & 10 130 of 1989 stand dismissed. So far as appeal in Special Leave Petition No. 9434 of 1989 is concerned, it is allowed in part and the order of the High Court as well as that of the President Land Acquisition Tribunal is modified only to the extent that interest shall be allowed at the rate of 6% per annum instead of 12% per annum from the date of Notification under Section 42 of the Punjab Town Improvement Act, till the date of award of the Collector or the date of possession of the land which ever is earlier. So far as other additional benefits granted by the President Land Acquisition Tribunal are concerned, the same would remain in-tact. In the facts and circumstances of the case there would be no order as to costs.

T.N.A.

Appeal allowed partly.

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