

A STATE OF HIMACHAL PRADESH AND ORS.

v.

SHRI DHARAM DAS

AUGUST 25, 1995

B [K. RAMASWAMY AND B.L. HANSARIA, JJ.]

*Land Acquisition Act, 1894 : Sections 23(1-A), 28 and 31.*

C *Land Acquisition—Compensation—Award of benefits under Section 23(1-A)—Held Valid—Additional award of interest on equitable grounds @12% from the date of taking possession of land till date of payment of compensation—Held not permissible.*

D *Interest—Power of Court to award—Provision for payment of interest in the statute—Court has no power to award interest on equitable grounds in addition to the statutory rates prescribed.*

E **In these land acquisition proceedings the High Court awarded to the claimants statutory benefits under section 23(1-A) of the Land Acquisition Act, 1894. In addition the High Court also granted interest on equitable grounds @ 12% per annum from the date of taking possession of land till the date of payment of compensation. Against the judgment of High Court, State preferred appeal to this Court.**

**Allowing the appeal, this Court**

F **HELD : 1. The finding of the High Court that the claimants would be entitled to payment of interest @ 12% on equitable grounds from the date of taking possession till date of deposit under section 12 in addition to the statutory rates of interest and 12% additional amount under section 23(1-A) for the same period is clearly illegal. The order of the High Court to the extent of granting 12% interest from the date of taking possession, namely, October, 1972 till date of deposit, namely March, 1987, is illegal and is accordingly set aside. But the direction to pay additional amount under section 23(1-A) from the date of taking possession till date of making the award is valid and needs no interference. [78-B-C]**

H **2. When the statute deals with payment of interest to the claimants**

either under section 31 or section 28 of the Land Acquisition Act, the Court has no power to award interest in a manner other than the one in which the statute prescribes payment. Apart from section 31 and proviso to section 28 there is no other provision under the Act empowering the Court to award interest on equitable grounds, in addition to statutory rates of interest prescribed under the Act. Equitable consideration has no role to play in determination of the compensation and the manner of awarding interest as enjoined under the Act. The Act is to be administered in the manner laid in the Act and in no other way. As a concomitance, the equity jurisdiction of the Court is taken out and the Act enjoins the Court to grant interest as per the statutory rates specified in the Act. [77-E-H; 78-A]

*Mir Fazeelath Hussain & Ors. v. Special Deputy Collector, Land Acquisition, Hyderabad, [1995] 3 SCC 208 and Kalimpong Land & Building Ltd. v. State of West Bengal, [1994] 6 SCC 720, relied on.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8030 of 1995.

From the Judgment and Order dated 9.7.87 of the Himachal Pradesh High Court in Contempt Petition (C) No. 40 of 1987.

Himinder Lal and Naresh K. Sharma for the Appellants.

The following Order of the Court was delivered :

Leave granted.

Though notice has been served on the respondent on May 23, 1995, none is appearing either through counsel or in person. Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') was published on February 27, 1986 and the Collector passed the award on March 29, 1987. Dissatisfied therewith, the respondent had filed C.W.P. No. 125/86 and the High Court by its order dated July 23, 1986 held that:

"On the amount of compensation payable to the petitioner in respect of land, interest at the rate of 12 per cent per annum shall be paid from the date of the taking over of possession till the date of payment of interim compensation and of final compensation, if there is enhancement. The interest payable accordingly is in the nature of an equitable compensation and such interest will be in

A addition to the compensation, solatium and interest at the statutory rate which will be paid to the petitioner under the law in respect of land, whether awarded by the Collector or enhanced by the Court, and such interest will not be taken into consideration in any Proceeding under the Act while awarding the statutory compensation."

B

Following that direction the award has been made thus :

"Accordingly, the award was announced by the Land Acquisition Collector and the respondent was paid as under :

C

(a) Compensation for the land Rs. 1750.00

(b) Interest @ 12% on Rs. 1750  
(from Oct. 1972 to 31.3.87)

D

in the nature of equitable compensation as per order dated 23.7.1986 of Hon'ble High Court. Rs. 3045.00

(c) Amount awarded @ 12% from Oct. 1972 to March 1987 u/s.23(1-A) of the Land Acquisition Act. Rs. 3045.00

E

(d) Solatium @ 30% Rs. 525.00

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Rs. 8365.00

F A reading thereof clearly indicates that advance possession was taken in 1972, though notification under s.4(1) of the Act was published on February 19, 1986. The Court has awarded under s.23(1A) additional amount at 12% p.a. of the compensation from October 19, 1972 to March 1987. The question, therefore, is whether the Court is empowered to award 12% interest, in addition to benefits under s.23(1A) of the Act as amended

G under Amendment Act 68 of 1984. The controversy is no longer *res integra*. It is settled law by catena of decisions of this Court. In *Mir Fazeelath Hussain & Ors. v. Special Deputy Collector, Land Acquisition, Hyderabad*, [1995] 3 SCC 208, a bench of three Judges to which one of us B.L. Hansaria, J was a member, dealt with the power of the Court to grant

H interest on equitable consideration and held thus :

"10. It has also been submitted by Shri Madhava Reddy that higher rate of interest may be ordered to do equity between the parties. We are unable to concede, as, had the present been a case of non-awarding of any interest, we would have done so, because, interest in such cases may become payable on equity, for it is meant to make good the loss suffered by a person due to delayed payment. This view has been reiterated recently by this Court in *Kalimpong Land & Building Ltd. v. State of West Bengal*, [1994] 6 SCC 720, in which payment of interest was ordered, even when acquisition was under Requisitioning and Acquisition of Immovable Property Act, 1952, which statute has made no specific provision, unlike the Act at hand, for payment of interest. But equity has no role when the question relates to rate of interest. Whether the rate of interest should be 6% or 9% is not a matter which would require invocation of court's equitable jurisdiction. The same has to be governed by statutory provision. Had the rate of interest been too low, we could have perhaps on equity granted some relief. But 6% has been the rate for a very long period insofar as the Act is concerned as the enhancement came only in 1984 whereas the Act is of 1894. So, we are not satisfied if enquiry demands granting of relief in question."

Similar view was taken by this Court in several decisions. It is settled legal position that when the statute deals with payment of interest to the claimants either under s.31 or s.28 of the Act, the Court has no power to award interest in a manner other than the one in which the statute prescribes payment. It is seen that in a case where decision has been taken exercising the urgency power under s.17(4) of the Act and the award was made subsequent to the taking over possession, obviously the claimant would be entitled to payment of interest under s.31 from the date of taking possession till the amount is deposited pursuant to the award of the Collector under s.11. On reference, if the compensation is enhanced, under s.28 of the Act and the proviso thereto the claimants would be entitled to the rates of interest specified therein. Apart from these two provisions, there is no other provision under the Act empowering the Court to award interest on equitable grounds, in addition to statutory rates of interest prescribed under the Act. Equitable consideration has no role to play in determination of the compensation and the manner of awarding interest as enjoined under the Act. The Act is to be administered in the manner laid in the Act and in no other way. As a concomitance, the equity jurisdiction

A of the Court is taken out and the Act enjoins the Court to grant interest as per the statutory rates specified in the Act.

Thus, we hold that the finding of the High court that the claimants would be entitled to payment of interest @ 12% on equitable grounds from the date of taking possession till date of deposit under s.12 in addition to the statutory rates of interest and 12% additional amount under s.23(1A) for the same period is clearly illegal.

The appeal is accordingly allowed and the order of the High Court to the extent of granting 12% interest from the date of taking possession, namely, October, 1972 till date of deposit, namely March, 1987, is illegal and is accordingly set aside. But the direction to pay additional amount under s.23(1A) from the date of taking possession till date of making the award is valid and needs no interference as the claimants did not challenge the validity of the notification under s.4(1) and the possession taken must be referable to it. No costs.

D T.N.A.

Appeal allowed.