

A

UNION OF INDIA

v.

DULAL CHANDRA GHOSH AND ORS.

DECEMBER 15, 1995

B

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

C

*Requisition and Acquisition of Immovable Property Act/Rules, 1952—Section 8(3)—Rule 9—Land Acquisition Amendment Act 68 of 1984—Award of solatium and interest under jurisdiction of Tribunal—Appointment of Tribunal sought by respondents—Held : Tribunal has no jurisdiction—Yet in the facts of the case respondent entitled to solatium and interest.*

D

Certain disputed land was notified for acquisition and the award was passed by the collector. Respondent did not accept the award of the Collector and refused to execute any agreement in terms of Form J and sought for appointment of an Arbitrator. The Arbitrator granted solatium and interest on the principal amount under the Land Acquisition Amendment Act 68 of 1984. The appellant contended that the Tribunal has no power and jurisdiction to award solatium and interest.

E

Dismissing the appeal, this Court

F

HELD : 1. In view of the facts of the present case, Respondents are entitled to payment of solatium at 30 percent and interest at 6 percent on the enhanced compensation from the date of the application for appointment of Arbitrator, till the date of the award by the Arbitrator. Though the Land Acquisition Amendment Act 68 of 1984 does not apply nor does the principle of awarding solatium and interest for the lands acquired under the Act arise, as the Act did not provide such a right. [794-H, 795-A]

G

*Harbans Singh, Shakti Dewan & Ors. v. U.O.I.*, [1995] Supp. 4 SCC 223, relied on

*Union of India v. Hari Kishan Khosla, JT (1992) 5 SC, 574*, referred to.

H

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 12093 of 1995.

From the Judgment and Order dated 2.9.91 of the Calcutta High Court in Original Order Tender No. 2188 of 1989. A

A.S. Nambiar and Ms. A. Subhashini for the Appellants.

S. B. Upadhyay for the Respondents.

The following Order of the Court was delivered : B

Leave granted.

We have heard the learned counsel for both the parties. The admitted facts of the case are that the land was notified for acquisition under Section 7 of the Requisition and Acquisition of Immovable Property Act, 1952 (for short 'the Act') on July 10, 1968. The Collector passed his award on March 10, 1973 and the notice was issued on Form-J to the respondents. They did not accept the offer of the Collector nor they executed any agreement in terms thereof. Consequently they sought for appointment of an arbitrator under Section 8(3) read with Rule 9 of the Rules on August 23, 1977. The arbitrator came to be appointed on September 5, 1988 who made his award on March 14, 1989. He granted solatium and interest under the Land Acquisition Amendment Act 68 of 1984. C D

It is contended by Shri Nambiar, learned senior counsel for the Union that in view of the ratio in *Union of India v. Hari Kishan Khosla*, JT (1992) 5 SC 574, the Tribunal has no power and jurisdiction to award solatium and interest on the principal amount. We are in agreement with the learned counsel that the Land Acquisition Amendment Act 68 of 1984 does not apply nor does the principle of awarding solatium and interest for the land acquired under the Act did not provide such a right. However, following the ratio of the same judgment of this Court in paragraph 74 following the ratio of another judgment referred to therein, i.e. *Harbans Singh, Shakti Deven & Ors. v. Union of India*, [1995] Suppl. 4 SCC 223, this Court, despite the non-applicability of the Amendment Act 68 of 1984, had directed payment of solatium at 30 per cent and interest at 6 per cent on the enhanced compensation from the date of the award of the Collector till the date of the deposit as a compensation for the delay caused by the Union of India in making the appointment of the arbitrator. E F G

In view of the admitted facts of the case that the respondents as a fact sought reference by refusing to execute the Form-J agreement and the H

- A amount offered, by the Collector, and made an application on August 23, 1977 seeking appointment of arbitrator, they would be entitled to payment of solatium at 30 per cent and interest at 6 per cent on the enhanced compensation from the date of the application for appointment of arbitrator i.e. August 23, 1977 till the date of the award by the arbitrator, namely, March 14, 1989.

B

The appeal is accordingly disposed of. No cost.

K.K.T.

Appeal disposed of.