

KRISHI UTPADAN MANDI SAMITI ORAI DISTRICT,
JALAUN THROUGH ITS SECRETARY

A

v.

AMAR SINGH AND ANR.

SEPTEMBER 20, 1996

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[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Land Acquisition Act, 1894 :

Sections 23(1-A), 23(2), 26 and 28—Compensation Award passed by the Reference Court—On appeal High Court awarding additional amount, enhancing solatium and also awarding interest—Held : High Court was in error in granting the additional amounts to which the claimants not entitled—They are entitled to interest @ 6% on the enhanced compensation from date of taking of possession of the land till date of deposit and solatium at 15% on the enhanced compensation.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 13090 of 1996.

From the Judgment and Order dated 19.5.94 of the Allahabad High Court in C.M.A. No. 3684/90 in F.A. No. 4 of 1981.

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O.P. Rana, T. Mahipal and Pradeep Misra for the Appellant.

V.K.. Choudhary and A.S. Pundir for the Respondents.

The following Order of the Court was delivered :

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Leave granted.

Though the notice was issued, neither the acknowledgment nor the unserved cover has been received from the second respondent. The first respondent is appearing through the counsel.

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We have heard the learned counsel for the appellant and the first respondent. A notification under Section 4(1) of the Land Acquisition Act, 1894 was published on March 1, 1973. The award of the Collector was made on 15th October, 1975. On reference under Section 18, the Civil Court enhanced the compensation on January 30, 1975. On July 9, 1981,

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- A the appeal filed by the State was dismissed confirming the compensation @ Rs. 10,000 per acre. Subsequently, the claimant's appeal was disposed of on August 24, 1987 with enhancement of the solatium and interest and also the additional amount under Section 23(2), proviso to Section 28 and Section 23(1-A) respectively. In March 1990, application under Section 151, CPC filed by the appellant for correction of the award granted by the High Court was dismissed on May, 1994. Thus, this appeal by special leave.

- B
- C It is now well settled legal position that when the award itself under Section 26 was passed by the reference Court on January 10, 1979, the High Court was obviously in error in awarding the additional amount under the Amendment Act 68 of 1984 as per Section 23(2), proviso to Section 28 and Section 23(1-A) enhancing solatium to 30%, interest @ 9% for one year and @ 15% thereafter from the date of taking possession on enhanced compensation and additional amount @ 12% per annum from the date of the notification till the date of taking possession or award, whichever is earlier. In these circumstances, the High Court was obviously in error in granting those additional amounts. When an application under Section 151, CPC was filed, the High Court ought to have corrected its mistake, but instead it dismissed it. Under these circumstances, we hold that the claimants are not entitled to the aforesaid benefits; instead, they are entitled to the interest @ 6% on the enhanced compensation from the date of taking possession of the land till the date of deposit and solatium at 15% on the enhanced compensation.

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E The appeal is accordingly allowed, but without costs.

G.N.

Appeal allowed.

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