

CHAIRMAN, NEYVELI LIGNITE CORPN. LTD.

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v.

C. GOVINDA PADAYACHI AND ANR.

APRIL 3, 2006

[B.P. SINGH AND ALTAMAS KABIR, JJ.]

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Land Acquisition Act, 1894—Sections 28 and 33—Acquisition of Land—Compensation—On litigation quantification of compensation by Supreme Court—Quantified amount was lump sum inclusive of solatium and interest—Landlord's claim, of interest on the excess amount awarded by Supreme court, from the date the possession of land was taken—Held: The claim of the landowner not permissible—The claim of interest was included in the lump sum amount determined by Supreme Court—Interest could be claimed on the quantified amount only after the date of judgment of Supreme Court till the date of payment.

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D

Certain lands were acquired under Land Acquisition Act, 1894. Dissatisfied with the award of the Collector, respondent No. 1 filed reference petition, whereby quantum of compensation was increased. In appeal thereagainst, High Court had directed the appellant to deposit the enhanced compensation awarded by the Reference Court with stipulation that 50% of such amount could be withdrawn by the landowner without security and the remaining balance, upon furnishing the security. Respondent No. 1 withdrew 50% of the deposit without security.

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In the meantime in similar matters High Court reduced the rate of compensation. In appeal thereagainst by respondent No. 1, this court, by its order dated 7.12.1999 modifying the order of High Court, determined the rates of compensation which were inclusive of solatium and interest and were lump sum payments. It also directed to refund the balance 50% of the amount lying with the Bank, to the appellant.

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Appellant filed an application before Court of Sub-Judge in terms of order of this Court claiming payment of Rs. 83,985.26. Respondent No. 1 also filed an application claiming the balance of the lump sum amount together with the entire amount of interest earned on the deposit. Court directed the parties to file revised memo of calculation on the basis of orders passed by

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A this Court. Respondent No.1 filed Revision Petition thereagainst. High Court directed refund of Rs. 5,224/- only to the appellant against its claim and directed payment of lump sum amount together with the entire amount of interest on the deposit. Hence the present appeal.

Allowing the appeal, the Court

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HELD: 1. It cannot be said that in view of Sections 28 and 33 of Land Acquisition Act, 1894 in addition to compensation as quantified by this Court earlier, respondent No. 1 was also entitled to interest on the excess amount as awarded by this Court from the date on which the possession of the lands was taken till the payment of such excess amount into court. By order dated **C** 7th December, 1999, this Court while fixing a lump sum amount as compensation, took into consideration not only the value of the land acquired but solatium and interest as well. The interest that could have been claimed under Sections 28 and 33 of the Act were, in fact, included in the lump sum amount till 7th December, 1999, and interest can be claimed by respondent **D** No. 1 on the quantified amount only after 7th December, 1999 till the date of payment. [707-B-C; 707-E-F]

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2. High Court misconstrued its earlier order directing the appellant to deposit the enhanced compensation awarded by the Reference Court and permitting the land owners to withdraw 50 per cent of such amount without security and the remaining 50 per cent upon furnishing of security. High Court appears to have missed sight of the fact that when the direction was given in earlier order to the appellant herein to deposit the enhanced amount of compensation, the award was yet to be finalized and that the award was ultimately finalized on 7th December, 1999 by this court and that respondent **F** No. 1 would, therefore, be entitled to compensation in terms of the amount as quantified on 7th December, 1999. In the light of the order passed by this Court on 7th December 1999, quantifying the compensation amount to include solatium and interest, the provisions of Sections 28 and 33 of the Act would no longer be attracted. [707-G-H; 708-A-B]

G *Sunder v. Union of India*, [2001] 7 SCC 211, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1876 of 2006.

From the Judgment and Order dated 27.10.2004 of the High Court of Madras in C.R. No. 1406/2004.

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V.R. Reddy, K.R. Sasiprabhu and M.K. Sreegosh for the Appellant. A

K.V. Viswanathan, B. Raghunath and Ms. V. Mohana for the Respondent.

The Judgment of the Court was delivered by

ALTAMAS KABIR, J. Leave granted. B

Between 1975 and 1978, certain lands in the district of Cuddalore in the State of Tamil Nadu were notified for acquisition under Section 4 (1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') for the purpose of expansion of the mines belonging to the appellant herein. In such notification, 0.22 acres of house sites and 0.78 acres of manavary dry lands, belonging to the respondent No.1 herein, were acquired. The Land Acquisition Collector awarded compensation of Rs.4,370.61 to the respondent No.1 at the rate of Rs.6,250/- per acre for house sites and Rs. 3,200/- per acre in respect of manavary dry lands, excluding solatium and interest. C

Dissatisfied with the award of the Collector, the respondent No.1 filed a reference petition, being L.A.O.P.No.279/1982, before the Sub-Judge, Cuddalore, on 20th August, 1984. The Reference Court by its award increased the quantum of compensation to Rs.50,000/- per acre for house sites and Rs. 40,000 per acre for manavary dry lands, excluding solatium and interest. D

Being aggrieved by the order passed on reference by the Sub-Judge, Cuddalore, the Special Tahsildar (Land Acquisition), in his capacity as the appropriate authority, filed an appeal before the High Court of Judicature at Madras on 26th February, 1985, being A.S. No.190/1985. By way of an interim order, the High Court directed the appellant herein to deposit the enhanced compensation awarded by the Reference Court with the stipulation that 50 per cent of such amount could be withdrawn by the land owner without security and the remaining balance could be withdrawn upon furnishing security. E F

Pursuant to the aforesaid direction of the High Court, the appellant herein deposited a sum of Rs.53,573.30 in court on 8th April, 1985. The respondent No.1 withdrew 50 per cent of the deposit, i.e. Rs.26,786.65, without furnishing security, but did not withdraw the balance by furnishing security. Accordingly, the balance 50 per cent of the deposited amount was directed by the court to be kept in a bank in a short-term fixed deposit. In the meantime, in a batch of similar matters, including A.S.No.190/1985, the High Court G H

A reduced the rate of compensation for house sites from Rs.50,000 per acre to Rs.20,000 per acre and for the manavary dry lands from Rs.40.000 per acre to Rs. 15,000 per acre, excluding solatium and interest.

The respondent No.1 and other land owners filed special leave petitions in this Court against the judgment of the High Court, being Civil Appeal No.6977-7002/1999, wherein the following order was passed by this Court on 7th December, 1999 :-

“After hearing learned counsel for the parties and with a view to give quietus to this litigation in the present set of cases, it appears appropriate to us, in order to do complete justice between the parties, to direct as follows:-

(1) That in modification of the orders of the High Court, the compensation shall be payable to the land holders in these cases at the following rates:-

Wetlands	Rs. 94,000 per acre
Irrigated Dry land	Rs. 82,000 per acre
Dry land	Rs. 47,000 per acre
Cashew Thope	Rs. 85,000 per acre
House Sites	Rs. 73,000 per acre.

These amounts are inclusive of solatium and interest and are lump-sum payments. The rates fixed by us above are confined to the present set of cases.

(2). That no previously settled cases shall be re-opened on the basis of the rates fixed by us as above.

(3) In cases where the land holders have withdrawn from the bank out of the 50 % deposit and are required to refund some amount on the basis of the amounts as fixed by us above, the Corporation shall recover that amount by 12 equal installments of one and a half month each. Similarly, if any additional amount, under our above directions, is to be paid to the landholders, it shall be done within three months from the date of this order.

(4) In the event, the amount of 50 % is still lying with the banks and a refund is required to be made to the Corporation by the landholders, that refund may be obtained out of the 50 % amount of bank deposit.

With the aforesaid directions all the claims arising out of the 89

appeal listed before us shall stand disposed of in full and final settlement.” A

As per the aforesaid order, the respondent No.1 who had already received a sum of Rs.4,370.61 under the order of the Collector and a further sum of Rs.26,786.65 being 50 per cent of the deposit without furnishing security, aggregating a sum of Rs.31,157.26, was entitled to receive a further a sum of Rs.21,562.74 towards full and final settlement of his claim. B

In keeping with the aforesaid order of this Court, the appellant herein arranged for the remittance to the court of a sum of Rs.1,05,548 representing the amount of deposit lying with the bank, together with the interest earned thereon. The appellant filed I.A. No.8/2001 in L.A.O.P.No.279/1982, along with a memo of calculation, before the court of Sub-Judge, Cuddalore, claiming payment of Rs.83,985.26 in terms of the orders of this Court dated 7th December, 1999. The respondent No.1 also filed an application, being I.A.No.104/2002, wherein he claimed the balance of the lump sum amount, namely, 21,562.74 together with the entire amount of interest earned on the deposit, being Rs.80,000. According to the respondent No.1, the amount to be refunded to the appellant herein was only Rs.5,223.91 and not Rs.83,985.26 as claimed by it. The said petition of the respondent No.1 was taken up for consideration by the Sub-Judge, Cuddalore, on 17th June, 2004 and a direction was given to the parties to file revised memo of calculation on the basis of the orders passed by this Court on 7th December,1999. C D E

Aggrieved by the said order, respondent No.1 filed a Revision Petition, being C.R.P.No. 1406/2004, against the order of the Sub-Judge, Cuddalore, dated 17th June, 2004, before the High Court of Judicature at Madras under Article 227 of the Constitution. The High Court by its order dated 27th October, 2004, directed refund of a sum of Rs.5,224 only to the appellant as against its claim of Rs.82,980.82 and also directed payment of Rs.1,00,324 to the respondent No.1. F

This appeal is directed against the aforesaid judgment of the High Court dated 27th October, 2004. G

On behalf of the appellant it was urged by Mr. Reddy, learned senior advocate, that the claim of the respondent No.1 and the order passed there upon by the High Court was not sustainable in view of the specific order passed by this Court on 7th December, 1999, while disposing of the earlier batch of appeals that the amounts as quantified in respect of the different H

A categories of land were lump sum payments which included solatium and interest. In other words, the amount of compensation payable, which included solatium and interest, was quantified and crystallized by the order of 7th December, 1999. The respondent No.1 would, therefore, be entitled to the compensation as was quantified on that date as far as his lands were concerned and in the event there was further delay in payment of the compensation amount, the said respondent could at best claim interest on the compensation amount as quantified after 7th December, 1999.

C It was submitted that the claim of the said respondent No.1 for payment of interest on the sum quantified by the order of this Court in terms of Section 28 of the Act was misconceived and the High Court had also misconstrued the purport of the order passed by this Court on 7th December, 1999. Mr. Reddy submitted that the respondent No.1 who was entitled to a total compensation amount of Rs.53,573.30 and had already received a sum of Rs.31,157.26 from the same, was entitled to receive the balance amount of Rs. 21,562.74 and interest thereupon from the date of this Court's order dated 7th December, 1999 till the date of actual payment at the rate of interest to be decided by this Court. It was submitted further that the amount which was deposited by the appellant in court pursuant to the direction given by the High Court did not represent the awarded sum but security for the same since the award had not attained finality. It was submitted that it was only on 7th December, 1999 that the awarded sum stood quantified by virtue of the orders passed by this Court in the earlier batch of appeals and accordingly the respondent No.1 could have no claim to the amount as deposited and his claim would have to be confined to the amount as quantified by this Court which included not only the value of the lands acquired, but solatium and interest as well.

F The stand taken on behalf of the appellant was strongly opposed on behalf of respondent No.1 mainly on the ground that by virtue of the order passed by the High Court, the respondent No.1 was not only entitled to receive 50 per cent of the amount deposited in court by the appellant without furnishing security, but that the said respondent was also entitled to withdraw the balance 50 per cent upon furnishing security. It was contended that the respondent No.1 had acquired a right to the remaining 50 per cent of the amount deposited by virtue of the said order of the High Court and that had he withdrawn the said amount upon furnishing security in 1985, he could have enjoyed the benefits of the said amount as had been done by various other similarly placed individuals.

It was submitted that it is well-settled that any amount which accrues to deposits made pursuant to the orders of the court are to be paid to the persons entitled to such deposits. A

Mr. Viswanathan, learned advocate, who appeared for the respondent No.1, referred to Section 28 of the Act to bolster the claim of the respondent No.1 that in addition to the compensation as quantified by this Court earlier, the respondent No.1 was also entitled to interest on the excess amount as awarded by this Court from the date on which the possession of the lands was taken till the payment of such excess amount into court. Reference was also made to Section 33 of the said Act on account of the fact that the appellant had been directed to deposit in court the amount determined as compensation by the Reference Court which amount had been invested and had earned interest while the matter was pending. B C

In this regard, reference was made to the Constitution Bench decision of this Court in the case of *Sunder v. Union of India*, [2001] 7 SCC 211, wherein on an interpretation of Sections 28 and 34 of the aforesaid Act, it was held that interest was also payable on solatium and that the amount of the award in Section 34 means the aggregate amount of compensation calculated in accordance with the provisions of all the Sub-sections of Section 23 which includes solatium. D

Having considered the submissions made on behalf of the respective parties, we are unable to accept the submissions advanced on behalf of respondent No.1 on account of the fact that by order dated 7th December, 1999, this Court while fixing a lump sum amount as compensation, took into consideration not only the value of the land acquired but solatium and interest as well. The interest that could have been claimed under Sections 28 and 33 of the above Act were, in fact, included in the lump sum amount till 7th December, 1999, and interest can be claimed by the respondent No.1 on the quantified amount only after 7th December, 1999 till the date of payment. E F

In our view, the High Court misconstrued its earlier order in A.S.N.190/1985 directing the appellant to deposit the enhanced compensation awarded by the Reference Court and permitting the land owners to withdraw 50 per cent of such amount without security and the remaining 50 per cent upon furnishing of security. While passing its order on 27th October, 2004, the High Court appears to have missed sight of the fact that when the direction was given in A.S.No.190/1985 to the appellant herein to deposit the enhanced G H

- A amount of compensation, the award was yet to be finalized and that the award was ultimately finalized on 7th December, 1999 by this Court and that the respondent No.1 would, therefore, be entitled to compensation in terms of the amount as quantified on 7th December, 1999. In our view, in the light of the order passed by this Court on 7th December, 1999, quantifying the compensation amount to include solatium and interest, the provisions of
- B Sections 28 and 33 of the above Act would no longer be attracted and the respondent No.1 would only be entitled to interest on the delayed payment of the quantified amount on and from 7th December, 1999 till the date of actual payment.
- C In that view of the matter, the appeal succeeds and is allowed. The order of the High Court impugned in the appeal is set aside and it is directed that out of the sum of Rs. 1,05,548/- remitted to the court below by the bank, the respondent No.1 will be entitled to receive a sum of Rs.21,562.74, being the balance amount of the total compensation payable in terms of the compensation quantified by this Court's Order dated 7th December, 1999,
- D together with interest thereupon calculated at the rate of 15 per cent from 7th December, 1999, till the date of payment of the balance amount of the award. Having regard to the fact that the lands were acquired between 1975 and 1978, such payment should be made expeditiously, but positively within a period of six months from the date of the communication of this judgment.
- E The amount left over after payment of the aforesaid sums are to be paid to the appellant.

There will be no order as to costs.

K.K.T.

Appeal allowed.