

CHHANGA SINGH AND ANR.
v.
UNION OF INDIA AND ANR.
(Civil Appeal No. 4322 of 2012)

MAY 08, 2012

[DR. B.S. CHAUHAN & JAGDISH SINGH KHEHAR, JJ.]

Land Acquisition Act, 1894 – Interest on solatium – Entitlement to – Reference Court awarded solatium as provided under the Act – But did not award interest on the amount of solatium – Claim by appellants-landowners for interest on solatium during execution proceedings – Tenability of – Held: Tenable – Respondents directed to make payment of interest on solatium as per the law laid down in Gurpreet Singh case.

Gurpreet Singh v. Union of India (2006) 8 SCC 457: 2006 (7) Suppl. SCR 422 – followed.

Land Acquisition Officer and Assistant Commissioner & Anr. v. Shivappa Mallappa Jigalur & Ors. (2010) 12 SCC 387; 2010 (7) SCR 833; Nadirsha Shapurji Patel (dead) by Lrs. & Ors. v. Deputy Collector & Land Acquisition Officer & Anr. (2010) 13 SCC 234; 2010 (15) SCR 516 and Iyasamy & Anr. v. Special Tahsildar, Land Acquisition (2010) 10 SCC 464: 2010 (12) SCR 489 – relied on.

Sunder v. Union of India (2001) 7 SCC 211: 2001 (3) Suppl. SCR 176 – referred to.

Case Law Reference:

2001 (3) Suppl. SCR 176	referred to	Para 3, 6
2006 (7) Suppl. SCR 422	followed	Para 6
2010 (7) SCR 833	relied on	Para 7

- A 2010 (15) SCR 516 relied on Para 7
 2010 (12) SCR 489 relied on Para 7

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4322 of 2012.

- B From the Judgment & Order dated 10.9.2008 of the High Court of Delhi at New Delhi in Civil Misc. Main Petition bearing Civil Misc. (Main) No. 196 of 2007.

- C Naresh Kaushik, Sanjeev Kumar Bhardwaj, Aditi Gupta, Lalita Kaushik for the Appellant.

A. Sharan, Vishnu B. Saharya, Viresh B. Saharya (for Saharya & Co.), Rekha Pandey, Asha G. Nair, B.V. Balram Das, Sadashiv Reddy, Sushma Suri for the Respondent.

- D The Order of the Court was delivered

O R D E R

1. Leave granted.

- E 2. The controversy in this appeal lies in a very narrow compass. The sole issue involved herein is as to whether the appellants are entitled for interest over the amount of solatium granted to them.

- F 3. Admitted facts necessary to adjudicate upon the controversy in this appeal are that:

- G I. The land of the appellants stood notified under Section 4 of the Land acquisition Act, 1894 (hereinafter being referred to as 'the Act') on 30th October, 1963. In respect of the said land, Declaration under Section 6 of the Act was made on 16th January, 1969.

- H II. Compensation was awarded under Section 11 of the Act on 17th September, 1986 assessing the

market value of the land @ Rs.4350 per bigha. A
Being aggrieved, the appellants made an
application for reference under Section 18 of the
Act, and the Reference Court vide award dated 1st
June, 2001 assessed the market value of the land
@Rs.16,750/- per bigha and awarded the solatium B
as provided under the Act. However, interest was
not awarded on the amount of solatium and it
restricted only to the enhanced amount of
compensation.

III. The appellants filed the execution petition on 3rd C
September, 2001.

IV. It was during the pendency of the execution
proceedings, this Court decided the matter in
Sunder v. Union of India, (2001) 7 SCC 211 on D
19th September, 2001 explaining that persons-
interested like the appellants are also entitled for
interest on amount of solatium.

4. So far as this case is concerned, the respondents E
made the payment as per the award of the Reference Court
dated 1st June, 2001 on 15th April, 2004 partly. The appellants
filed an application on 6th May, 2004 for claiming the balance
amount including the interest on solatium. The Execution Court
rejected the said application vide order dated 22nd November, F
2006 which was challenged unsuccessfully before the High
Court by the appellants as the High Court rejected their claim
for the said relief vide impugned judgment and order dated 10th
September, 2008.

Hence, this appeal. G

5. We have heard learned counsel for the parties and gone
through various judgments.

6. However, learned counsel for the appellants have H

A placed a very heavy reliance on the judgment of this Court in *Gurpreet Singh v. Union of India* (2006) 8 SCC 457, wherein the legal position in this regard has been explained as under:

B “54. One other question also was sought to be raised and answered by this Bench though not referred to it. Considering that the question arises in various cases pending in courts all over the country, we permitted the counsel to address us on that question. That question is whether in the light of the decision in *Sunder*, the awardee/decree-holder would be entitled to claim interest on solatium in execution though it is not specifically granted by the decree. It is well settled that an execution court cannot go behind the decree. If, therefore, the claim for interest on solatium had been made and the same has been negated either expressly or by necessary implication by the judgment or decree of the Reference Court or of the appellate court, the execution court will have necessarily to reject the claim for interest on solatium based on *Sunder* on the ground that the execution court cannot go behind the decree. But if the award of the Reference Court or that of the appellate court does not specifically refer to the question of interest on solatium or in cases where claim had not been made and rejected either expressly or impliedly by the Reference Court or the appellate court, and merely interest on compensation is awarded, then it would be open to the execution court to apply the ratio of *Sunder* and say that the compensation awarded includes solatium and in such an event interest on the amount could be directed to be deposited in execution. Otherwise, not. We also clarify that such interest on solatium can be claimed only in pending executions and not in closed executions and the execution court will be entitled to permit its recovery from the date of the judgment in *Sunder* (19-9-2001) and not for any prior period. We also clarify that this will not entail any reappropriation or fresh appropriation by the decree-holder. This we have

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indicated by way of clarification also in exercise of our power under Articles 141 and 142 of the Constitution of India with a view to avoid multiplicity of litigation on this question.” A

While deciding the said case, this Court has considered and explained the judgment in *Sunder* (Supra). B

7. The view taken by the Constitution Bench has consistently been re-iterated and followed by this Court as is evident from the judgments in *Land Acquisition Officer and Assistant Commissioner & Anr. v. Shivappa Mallappa Jigalur & Ors.* (2010) 12 SCC 387; *Nadirsha Shapurji Patel (dead) by Lrs. & Ors. v. Deputy Collector & Land Acquisition Officer & Anr.* (2010) 13 SCC 234; and *Iyasamy & Anr. v. Special Tahsildar, Land Acquisition* (2010) 10 SCC 464. C

8. In view of the above, the submissions of the appellants are worth acceptance. The appeal is accordingly allowed. The respondents are directed to make the payment of interest on the solatium as per the law laid down in *Gurpreet Singh* (Supra) within a period of three months from today. D

B.B.B.

Appeal allowed. E