

**(1989) 11 P&H CK 0025**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Civil Revision No. 1273 of 1989

Tirlochan Singh

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

**Date of Decision:** Nov. 21, 1989

**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Order 21 Rule 1, 115
- Constitution of India, 1950 - Article 227
- Land Acquisition Act, 1894 - Section 23

**Citation:** (1990) 97 PLR 311

**Hon'ble Judges:** M.R. Agnihotri, J

**Bench:** Single Bench

**Advocate:** M.S. Jain and Sarita Gupta, for the Appellant; Madan Dev, for the Respondent

**Final Decision:** Allowed

**Judgement**

M.R. Agnihotri, J.

In this bunch of Civil Revisions No. 1040, 1041, 1042, 1043 and 1229 of 1989, arising out of the order dated 7th January, 1989, passed by the learned Additional District Judge, Rohtak, the short point involved is as to whether the partial payment made by the State towards the payment " of compensation of the land acquired has to be first adjusted towards the amount of costs, interest etc, and the balance amount paid sub- sequently to be adjusted towards the principal or vice-versa. The learned Additional District Jugde, after taking into consideration the provisions of Order 21, Rule 1, Civil Procedure Code, as substituted by the C. P. C. Amendment Act, 1976, and by placing reliance on the decision of the Himachal Pradesh in Punjab National Bank, Delhi and etc. Vs. Prem Sagar Choudhary and Others, came to the conclusion that the amount paid by the State had to be adjusted first towards the principal decretal amount and not towards interest, costs, etc

2 With respect, I do not agree with the reasoning of the Himachal Pradesh High Court as the principle enunciated therein is applicable only to the commercial transactions and not the payments of compensation, interest, costs, etc in land acquisition cases. It was held by G. C. Mital, J. in *Manohar Lal and Ors. v. State of Haryana* 1986 P.L.R. 581 that in land acquisition cases that partial payment has first to be adjusted towards the payment of costs, interest, etc. and the balance amount as and when paid shall be adjustable towards market value that is, the principal decretal amount. The interest shall continue to run on the unpaid principal amount of market value even after making the partial payment by the State. In fact, by the amendment of Section 23 of the Land Acquisition Act, by amending Act 68 of 1984 the Legislature has made its intention clear that in land acquisition matters, emphasis is more towards the realisation of additional compensation, solatium, interest, costs, etc. than the principal amount of compensation itself.

3. Accordingly, all these revision petitions are accepted and the order dated 7th January, 1989, passed by the learned Additional District Judge, Rohtak, is set aside to the extent indicated above. thereby allowing the execution application of the petitioner. There shall be no order as to costs.