

(1990) 97 PLR 311

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 Judge, 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 enuaciated therein is applicable only to the

commercial transations and not the payments of compensation, interest, costs, etc in land acquisition cases. It was held by 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 acqution 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 Distict 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.