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Sant Lal and Others Vs State of U.P. and Others

None

Court: Allahabad High Court

Date of Decision: Jan. 9, 2009

Acts Referred:
Land Acquisition (Mines) Act, 1885 â€" Section 4#Land Acquisition Act, 1894 â€" Section 18, 28, 4, 54

Citation: (2009) 2 AWC 1585

Hon'ble Judges: S.U. Khan, J

Bench: Single Bench

Final Decision: Allowed

Judgement

S.U. Khan, J.
Heard learned Counsel for the petitioner as well as learned standing counsel for the respondents.

2. Some land of the petitioners was acquired under Land Acquisition Act and compensation was determined by S.L.A.O. Dissatisfied with the

compensation petitioner applied for making reference u/s 18 of Land Acquisition Act which was accordingly made and was registered as L. A.

No. 9 of 1990 on the file of Ist Additional District Judge, Jaunpur. The learned A.D.J., decided the reference partly in favour of the petitioners

through judgment and decree dated 6.7.1991. Market value was enhanced by learned A.D.J. 30% solatium was also awarded. Interest at the rate

of 12% per annum from the date of notification u/s 4 of Land Acquisition Act, i.e., 4.7.1988 till the date of dispossession, i.e., 12.1.1989, was

also awarded. It was further directed that on the additional compensation determined by the reference court due to determination of higher market

value at the time of Section 4 notification, interest of 9% per annum with effect from the date of transfer of possession, i.e., 12.1.1989 till payment

into Court shall also be made. Thereafter review petition was filed by the petitioners. In the review petition it was stated that market value as

determined by the reference court was still on the lower side. It was also stated that rate of interest, i.e., 9% was on the lower side and it must also

be enhanced. The review was rejected on 28.9.1991 by Ist Additional District Judge, Jaunpur. This writ petition is directed against the said order.

3. As far as question of determination of market value is concerned, there was nothing wrong in the judgment of the reference court which could be

reviewed. If the petitioner was dissatisfied he could file appeal in the High Court u/s 54 of Land Acquisition Act.

4. However, the question of interest ought to have been corrected by the reference court as it was patent error.

5. u/s 28 of the Land Acquisition Act on the difference of compensation as determined by the Court and by Special Land Acquisition Officer, 9%

per annum interest may be directed to be paid from the date on which possession was taken till the date of payment of excess amount in Court and

it is further provided that if amount is deposited after one year from the date on which possession was taken, 15% interest per year shall be

awarded after one year. Sections 28 is quoted below:

28. Collector may be directed to pay interest on excess compensation.-If the sum which, in the opinion of the Court, the Collector ought to have

awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the

Collector shall pay interest on such excess at the rate of [nine per centum] per annum from the date on which he took possession of the land to the

date of payment of such excess into Court:

[Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date of expiry of a

period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date

of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such

expiry.]

6. Accordingly, learned A.D.J. was not correct in directing payment of interest at the flat rate of 9% per annum from the date of transfer of

possession, i.e., 12.1.1989 till payment into Court. 9% per annum interest could be awarded only till one year, i.e., till 11.1.1990 and thereafter

15% interest per annum should have been awarded.

7. Supreme Court in Sunder Vs. Union of India, has held that interest on solatium is also payable.

8. Accordingly, writ petition is allowed in part. Order dated 28.9.1991 rejecting review petition is set aside. Review petition filed before the

reference court is allowed in part. It is directed that 9% interest per annum shall be payable on the excess market value determined by reference

court and 30% solatium thereupon from 12.1.1989 till 11.1.1990 and thereafter, i.e., from 12.1.1990 till deposit of the excess amount in Court

interest @ 15% per year should be payable.

9. However, it is clarified that if against impugned award dated 6.7.1991, some appeal was filed and has been decided by this Court, then this

order shall be treated to be non est and writ petition should be treated to have been dismissed and whatever directions in the matter of interest

have been given by the appellate court should be followed.