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**(2003) 03 AHC CK 0076**

**Allahabad High Court (Lucknow Bench)**

**Case No:** First Appeal No. 45 of 2000

U.P. Avas Evam Vikas Parishad

APPELLANT

Vs

B.B. Mathur and Another

RESPONDENT

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**Date of Decision:** March 27, 2003

**Acts Referred:**

- Land Acquisition Act, 1894 - Section 18, 23(2)

**Citation:** (2003) 2 AWC 1691

**Hon'ble Judges:** N.K. Mehrotra, J

**Bench:** Single Bench

**Advocate:** R.K. Mehrotra, for the Appellant; Manish Mathur and A.K. Jaiswal, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

N.K. Mehrotra, J.

This is an appeal u/s 54 of the Land Acquisition Act read with Section 96 of the CPC against the judgment dated 2.2.2000 passed by the Presiding Officer, Nagar Mahapalika/U. P. Avas Evam Vikas Parishad Tribunal, Lucknow in Misc. Case No. 3 of 1986 : Smt. Vishnu Mathur v. State of U. P. and Ors., in a reference u/s 18 of the Land Acquisition Act.

2. It appears that the State of U. P. acquired certain land in Indira Nagar Extension Schedule vide Notification dated 17.3.1979 u/s 28 and Notification dated 20.5.1980 u/s 32 of U. P. Avas Evam Vikas Parishad Act, 1965. The Special Land Acquisition Officer determined the compensation @ Rs. 1.88 per sq. ft. while in the reference u/s 18 of the Land Acquisition Act, the compensation was enhanced from Rs. 1.88 to Rs. 3 per sq. ft. but the Tribunal did not allow any interest on the amount of solatium.

3. I have heard the learned counsel for the parties. Both the learned counsel for the parties have stated that a Division Bench of this Court vide Judgment dated 23.9.2002 passed in First Appeal Nos. 98 of 1991, 99 of 1991, 15 of 1992 and 16 of

1992 has upheld the compensation @ Rs. 3 per sq./ ft. determined by the Tribunal and, therefore, the instant appeal filed by the Avas Evam Vikas Parishad, is liable to be dismissed.

4. At the same time, learned counsel for the respondent has argued that the portion of the impugned order by which the interest on the amount of solatium, has not been granted, is illegal.

5. In [Sunder Vs. Union of India](#), following question was referred to the Constitutional Bench of the Hon"ble Supreme Court :

"Is the State liable to pay interest on the amount envisaged u/s 23(2) of the Land Acquisition Act, 1894?"

In other words, the question was whether for the purpose of Section 28 read with Section 34, solatium is a part of compensation.

The aforesaid question was answered in the affirmative by the Constitutional Bench of the Hon"ble Supreme Court in the aforesaid case. Therefore, the portion of the impugned order by which the interest on the solatium has not been granted, is illegal.

6. Learned counsel for the respondent has referred [Shree Vijay Cotton and Oil Mills Ltd. Vs. State of Gujarat](#), in which the Hon"ble Supreme Court has held that the claimant need not file separate appeal/cross-objection before the High Court and he can claim interest in the said appeal.

7. In view of the aforesaid legal proposition laid down by the Hon"ble Supreme Court, I am of the opinion that the appeal is to be dismissed but the claimant is awarded interest on the amount of solatium at the rate of interest allowed by the Tribunal.

8. The appeal is dismissed. The claimant opposite party is awarded interest on the amount of solatium at the rate of interest determined by the Tribunal in the impugned order.