

(1993) 03 AP CK 0003

Andhra Pradesh High Court

Case No: C.R.P. No. 3873 of 1991

Special Deputy Collector, Land
Acquisition, M.C.H., Unit II

APPELLANT

Vs

B. Ananth and Others

RESPONDENT

Date of Decision: March 5, 1993

Acts Referred:

- Land Acquisition Act, 1894 - Section 23(1), 23(1A), 23(2), 28, 34

Citation: (1993) 2 ALT 169 : (1993) 1 APLJ 209

Hon'ble Judges: P. Ramakrishnam Raju, J

Bench: Single Bench

Advocate: Government Pleader for Civil Supplies, for the Appellant; M. Narender Reddy and V. Sambasiva Rao, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

P. Ramakrishnam Raju, J.

In this revision petition, a short but a ticklish question that arose for consideration is, whether the claimants are entitled to interest on the amount of 12% percentum on the market value as provided u/s 23(1-A) of the Land Acquisition Act (hereinafter called as "the Act").

2. The respondents, who are the land owners, filed an application in I.A.No. 803/90 in O.P.No. 651/87 before the 1st Additional Judge, City Civil Court, Hyderabad to review the decree passed in the said O.P. for including interest on the solatium awarded therein as well as 12% additional market value from the date of notification u/s 34 of the Act.

3. In this case, draft notification u/s 4(1) of the Act was published on 28-5-1981. Award was passed on 23-09-1986 fixing the market value at Rs. 28/- per square

ward. Dissatisfied with the said Award, the claimants filed O.P.No. 657/87 before the 1st Additional Judge, City Civil Court, Hyderabad, who enhanced the market value to Rs. 100/- by his decree dated 31-08-1991. In the said decree, interest u/s 28 of the Act was not included on the solatium and the additional market value of 12% as provided u/s 23(1-A) of the Act. Therefore, the claimants filed I.A.No. 803/90 seeking amendment of the decree claiming the said benefit. The learned Additional Judge, allowed the said application by his order dated 10-06-1991. Aggrieved by the same, Special Deputy Collector, Land Acquisition, MCH Unit II, Hyderabad has preferred the above C.R.P.

4. Before answering the question, it is relevant to notice the "language" used in Sections 23(1), 23(1-A), 23(2), 28 and 34. Section 23 of the Act may be usefully extracted here.

"23. Matters to be considered in determining compensation:- (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration.

firstly,....

secondly,...

thirdly,....

fourthly,

fifthly,...

sixthly,...

23 (1-A) In addition to the market-value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market-value for the period commencing on and from the date of the publication of the notification u/s 4, Sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier."

Explanation:-.....

" (2) In addition to the market-value of the land as above provided, the Court shall in every case award a sum of (thirty per centum) on such market-value in consideration of the compulsory nature of the acquisition."

5. Market-value and compensation are two different and distinct expressions. A plain reading of the Section, makes it abundantly clear that the market-value is one of the components in the determination of the amount of compensation. In determining the amount of compensation, firstly the market value of the land, secondly, the damage sustained by the person interested and so on shall be taken into consideration.

6. Section 23(1-A) says that in addition to the market-value of the land as above provided, the Court shall award an amount calculated at the rate of 12 per centum per annum on such market-value. Section 23(2) further provides that in addition to the market-value of the land as above provided, the Court shall award a sum of 30 per centum on such market-value in consideration of the compulsory nature of the acquisition. So, it is clear that solatium cannot form part of market-value of the land. It is significant to note that in Section 23(1-A) and Section 23(2) of the Act, the words market-value are used and not compensation. The word "compensation" is used only in Section 23(1) of the Act. If the different sub-sections of Section 23 are read together, the inescapable conclusion is that in addition to the market-value as fixed under Clause-I, Sub-section (1) of Section 23, 12 per cent additional market-value per annum as well as thirty percent on the market-value as solatium popularly so called, shall also be awarded.

7. Sections 28 and 34 provided for interest payable on the compensation as awarded. It is significant to note that here the word "compensation" is used in juxtaposition to the words "market-value". Therefore, interest is payable on compensation and not on the market-value.

8. Now, the further question is what is the amount of compensation as provided u/s 23. We have noticed that compensation is not only the market-value, but also the damage sustained by the person interested, as provided in Section 23(1) of the Act. In addition to the market-value, a further amount calculated at the rate of 12 per centum per annum on the market-value as provided u/s 23(1-A) as well as thirty per centum (solatium) on the market-value in consideration of the compulsory nature of acquisition also forms part of the compensation as determined u/s 23(1) of the Act. In this context, I may usefully refer to the observations of the Supreme Court in [Union of India \(UOI\) Vs. Shri Ram Mehar and Others](#), which are extracted hereunder.

"It seems to us that the term "market-value" has acquired a definite connotation by judicial decisions. Any addition to the value of the land to the owner whose land is compulsorily acquired which addition is the result of such factors as are unrelated to the open market cannot be, regarded as a part of the market-value. It is significant and has been" noticed at an earlier stage also that according to the other sections which appear in the principal Act interest is payable on such amount which is either a part of compensation or is the total compensation payable itself. If market-value and compensation were intended by the legislature to have the same meaning it is difficult to comprehend why the word "compensation" in Sections 28 and 34 and not "market-value" was used. The key to the meaning of the word "compensation" is to be found in Section 23(1) and that consists (a) of the market-value of the land and (b) the sum of 15% on such market-value which is stated to be the consideration for the compulsory nature of the acquisition. Market-value is therefore only one of the components in the determination of the amount of compensation."

Therefore, it is clear that interest is payable on the amount of compensation which includes not only the market-value but also 12% additional market-value as well as also on 30 percent solatium. I am also fortified by two decisions of the this Court as rightly relied on by the learned Counsel for the respondents, Sri M. Narendrareddy, reported in Ravinder v. Spl. Dy. Collector 1982 (2) An.W.R. 48 and Anjaneyulu v. Sub-Collector 1986 (1) ALT 342. A Division Bench of this Court in Ravinder v. Spl. Dy. Collector 1986 (1) ALT 342 has considered a similar question and held that interest is payable on the solatium also. In Anjaneyulu v. Sub-Collector 1986 (1) ALT 342 the learned single Judge considered the question, whether solatium is awardable on the additional sum of 12 percent also. The learned single Judge held that the amount of 12% per annum contemplated u/s 23(1-A) does not form part of the market-value. Therefore, solatium cannot be awarded unless it forms part of market-value.

9. The learned Counsel for the respondents, has also relied on two other decisions reported in [Raghubir Singh Vs. Union of India and Others](#), and in State of Maharashtra v. Manabhai Rathod 1989 LACC 220, to show that interest is payable on the additional market-value as well as solatium.

10. The learned Government Pleader, Sri. R. Narasimha Reddy, has stated that the decision reported in [Raghubir Singh Vs. Union of India and Others](#), was set aside by the Supreme Court in [Union of India \(UOI\) and Another Vs. Raghubir Singh \(Dead\) by Lrs. Etc.](#), . I have gone through the said decision, but it does not appear that the Supreme Court has reversed the decision of the Delhi High Court in [Raghubir Singh Vs. Union of India and Others](#), on this point.

11. The learned Government Pleader has also cited another decision reported in [State of Punjab and others Vs. Mohinder Singh Randhawa and another](#), for the proposition that interest cannot be awarded on the additional compensation of 12 per cent.

12. On a reading of the said Judgment, there is no warrant to come to such a conclusion. This ruling is no exception to the principle that the amount referred to in Section 23(1-A) is not part of the market value and therefore, interest is payable on that amount also. What is prohibited in this decision is, when interest for the second year of default is to be calculated at 15 per cent, the interest of 9 per cent for that amount should not be added to the compensation for purposes of calculating the interest. What emerges out of the above discussion is that interest is payable both on solatium as well as on 12% additional market-value u/s 28 or u/s 34 of the Land Acquisition Act.

13. For these reasons, I do not find any merit in the Civil Revision Petition. The Civil Revision Petition is, accordingly, dismissed. No costs.