A UNION OF INDIA

v.

AJAIB SINGH AND ORS.

FEBRUARY 12, 1996

B [K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Requisitioning & Acquisition of immovable Properties Act, 1952 :

Sections 7, 8(1)—Publication of Notification—Offer made to party in C *Form 'F' of the Rules framed under the Act—Party not agreeing to the compensation—Reference to Arbitrator—Award of higher compensation with solatium and interest—High Court further enhancing solatium and interest applying amended provisions of Land Acquisition (Amendment) Act 68 of 1984—Held : Since Land Acquisition Act itself does not apply, the Amend-ment Act as of 1984 is not applicable and so enhanced solatium and interest* D *not payable—Further held: since State not responsible for delay in the award of Arbitrator State not liable to pay interest—Land Acquisition Act, 1894—Land Acquisition (Amendment) Act 68 of 1984.*

Union of India **v.** *Hari Krishan Khosla*, **[1993] Supp. 2 SCC 149 and** *Union of India & Anr.* **v.** *Munsha & Ors.*, **JT (1995) 8 SC 289, relied on.**

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3780-92 of 1996.

From the Judgment and Order dated 19.7.85 of the Punjab & Haryana High Court in L.P.A. Nos. 695-707 of 1985.

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V.C. Mahajan, Wasim Qadri and C.V.S. Rao for the Appellants.

R.C. Pathak for the Respondents.

The following Order of the Court was delivered :

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Substitution allowed.

Leave granted.

Notification under section 7 of Requisition & Acquisition of Immov-H able Properties Act, 1952 (for short, the "Act") was published on October

13, 1969 and the award was made. Pursuant thereto an offer was made to the respondents in Form 'F' of the Rules framed under the Act. The respondents had not agreed for the compensation. As a consequence, the matter was referred under section 8(1) to the arbitrator. He took up the matter on November 7, 1975 and the award was made on August 19, 1983. The arbitrator awarded higher compensation with solatium and interest. When the matter was carried to the High Court by the appellants, the High Court had further enhanced the solatium and interest applying the amended provisions of the Land Acquisition (Amendment) Act 68 of 1984 by judgment and order dated 10.2.1984. Thus this appeal by special leave.

This Court in *Union of India* v. *Hari Krishan Khosla*, [1993] Supp. 2 SCC 149 has held that for the property acquired under the Act, the principle of solatium and interest under Land Acquisition Act 1 of 1894 is not applicable and that, therefore, the land owners are not entitled to the payment thereof. Noticing a judgment of another three-Judge Bench which had granted interest due to an abnormal delay on the part of the Union of India in appointing the arbitrator interest was awarded. All the cases thereafter were considered in *Union of India & Anr.* v. *Munsha & Ors.*, JT (1995) 8 SC 289. This Court has held that where the State is not in any way responsible for the delay in appointing the arbitrator, the claimants are not entitled to the payment of interest. Where the State, after the owner objected to the award of the Collector, is responsible in delaying the appointment of an arbitrator, necessarily the State has to bear the burden of paying interest to the claimants. Each case has to be examined on its own facts. It this case since the respondents had informed the appellant that they were not agreeable to the award of the Collector and made an offer in Form 'F' and immediately thereafter reference was made to the arbitrator, the State is not responsible for delay in the award of the arbitrator. Under those circumstances, the State is not liable to pay interest.

This Court has also repeatedly held that when the Court does not award any enhanced compensation which is a condition precedent for the application of the provisions of interest and solatium under the Land Acquisition Act, the Court lacks inherent jurisdiction to award solatium and interest in the land acquisition cases. Equally so, of the enhanced solatium and interest under the Amendment Act 68 of 1984. In these cases, since the Land Acquisition Act itself does not apply to the acquisition of

A the land under the Act, the Amendment Act 68 of 1984 equally does not apply. The High Court, therefore, has committed grave error of law in applying the provisions of the Amendment Act 68 of 1984 to further enhance solatium and interest.

The appeals are accordingly, allowed. The order of arbitrator as
B confirmed by the High Court awarding solatium and interest stands set aside. In other respects, the determination of compensation stands upheld. No costs.

G.N. Appeal allowed.