

A D-BLOCK ASHOK NAGAR (SAHIBABAD)
PLOT HOLDERS ASSOCIATION (REGD.)

v.
STATE OF U.P. AND ORS.

B APRIL 29, 1997

[K. RAMASWAMY, S. SAGHIR AHMAD AND
G.B. PATTANAIK, JJ.]

Land Acquisition Act, 1894 :

C *Solatium and interest under Amendment Act of 1984—Entitlement to—Award having become final, the stand of Awas Evam Vikas Parishad that they are not liable to pay solatium under the amended Act cannot be countenanced—Claimants are entitled to the balance amount—For those claimants whose lands have been taken possession of, interest shall be*
D *calculated as per the award from the date of taking possession till the date of deposit.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3571 of 1997.

E From the Judgment and Order dated 6.5.96 of the Allahabad High Court in C.M.W.P. No. 13550/92.

R.K. Gupta and Sudhir Kr. Gupta for the Appellant.

F P.K. Jain and A.K. Goel for the Respondents.

The following Order of the Court was delivered :

Leave granted.

G This appeal by special leave arises from the judgment of the Allahabad High Court, made on 6.5.1996 in CMWP No. 13550/92.

Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act') acquiring a large chunk of land was published on June 26, 1982. The Special Land Acquisition Officer had given his award under
H Section 11 on February 27, 1989 granting compensation @ Rs. 50 and Rs.

37.50 per sq. yd. It also granted solatium and interest under the Act as amended by 1984 Amendment Act. That award was allowed to become final. The question is : whether the members of the appellant-Association are entitled to compensation? In view of the fact that the award has already become final, the stand taken by the Awas Evam Vikas Parishad that they are not liable to pay solatium under the amended Act and the claimants are entitled to get solatium at 15% and interest at 6% under the Schedule to the U.P. Awas Evam Vikas Adhiniyam, cannot be countenanced. The question is : what is the balance amount payable? The Land Acquisition Officer has filed his counter-affidavit. Therein, he has stated that for the land admeasuring 1157.895 acres, compensation in a sum of Rs. 52,05,94,187.90 was determined. Out of which Rs. 42,15,00,000 was deposited and the balance amount was agreed to be deposited as admitted by the letter dated December 10, 1992 of the Commissioner, Shri Rajiv Kumar Singh. The balance amount of Rs. 3,26,22,583.25 is, therefore, payable to them. The liability to pay interest arises only when the Land Acquisition Officer takes possession of the land after the award comes to be made. It is stated on behalf of the Parishad that the possession of an extent of only 9.2. acres of land alone was delivered and the rest of the land has not been delivered. In view of the fact that the liability to pay the interest arises only from the date of taking possession and as it is claimed that the entire extent of the land has not been given possession, the Land Acquisition Officer is directed to determine as to what extent of the area possession of which has been given after the award; for those claimants whose lands have been taken possession, interest shall be calculated as per the award from the date of taking possession till date of deposit and interest shall accordingly be deposited within a period of six months from the date of the receipt of the judgment.

The appeal is accordingly allowed. No costs.

R.P.

Appeal allowed.