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UNION OF INDIA AND ORS.

v.

SHER SINGH AND ANR.

APRIL 15, 1996

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

*Requisitioning and Acquisition of Immovable Property Act, 1952 :*

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*S.8—Award of Arbitrator—Award of solatium and interest—Held, Arbitrator devoid of jurisdiction to award interest and solatium.*

*Union of India v. Hari Kishan Khosla*, [1993] Supp. 2 SCC 149, relied on.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7668 of 1996.

From the Judgment and Order dated 5.4.90 of the Punjab & Haryana High Court in L.P.A. No. 444 of 1990.

Mrs. Indira Sawhney for C.V.S. Rao for the Appellants.

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Sanjay Sarin and Ashok Mathur, for the Respondents.

The following Order of the Court was delivered :

Leave granted.

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We have heard learned counsel on both sides.

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This appeal by special leave arises from the order dated April 5, 1990 of the Division Bench of the Punjab & Haryana High Court made in LPA No. 444/90. The Land of the respondents, along with others, admeasuring 50.55 acres situated in village Behar Tehsil, Pathankot was requisitioned and subsequently acquired for defence purposes under the Requisition and Acquisition of Immovable property Act, 1952 (for short, the 'Act'). The Land Acquisition Officer had determined the compensation at Rs. 201 per canal. When an application was made by the respondents under Section 8 of the Act, the arbitrator in his award dated December 6, 1986 determined

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the compensation at Rs. 1,000 per canal. He also awarded solatium @ 30%

and interest @ 9% per annum for one year from the date of taking possession and @ 15% thereafter till date of deposit. When challenged, the appeal came to be dismissed by the learned single Judge and affirmed by the Divisions Bench. Thus this appeal by special leave. A

The only question that arises for consideration is: whether the respondents are entitled to the payment of solatium and interest awarded by the arbitrator? The Court in *Union of India v. Hari Kishan Khosla*, [1993] Supp. 2 SCC 149 held that the claimants are not entitled to the solatium and interest since the Act does not provide for the payment thereof. On the last occasion when the matter had come up for hearing, this Court passed an order on March 25, 1996 directing the appellants to produce the record of K-Form. A letter dated December 19, 1995 has been placed before us by the learned counsel for the appellants stating that the respondents have not received the amount under protest nor have they made any application for appointment of arbitrator within the stipulated period. We need not go into the question as regards the appointment of the arbitrator for determination of the compensation against the award of the Land Acquisition Officer since that order has become final. The only question is: whether the respondents are entitled to solatium and interest? B C D

Learned counsel for the respondents sought to contend that the Act provides for determination of just compensation. All the three components form part of the determination of just compensation and that, therefore, the award passed by the arbitrator does not warrant interference. We find no force in the contention. Determination of just compensation is with reference to the value of the land acquired under the Act. Since the payment of solatium and interest is in addition to the compensation determined under the Act, this Court in *Hari Kishan Khosla's* case (supra) and held that the arbitrator is devoid of jurisdiction to award solatium and interest. Under these circumstances, the High Court was not right in upholding payment of solatium and interest. E F

The appeal is allowed to the extent of awarding of solatium and interest and with respect to determination of compensation @ Rs. 1,000 per canal the order of the High Court stands upheld. No costs. G

G.N.

Appeal allowed.