

YADAVRAO P. PATHADE (DEAD) BY LRS. ETC.

A

v.

STATE OF MAHARASHTRA

JANUARY 24, 1996

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

B

Land Acquisition Act, 1894 :

Sections 23(2), 26, 28—Interest on solatium—Not a part of the component of compensation under S.23(1)—Claimants entitled to interest on enhanced compensation from date of award and on appeal on the respective compensation, if enhanced, till date of deposit—State directed to deposit the balance of interest on enhanced compensation till deposit.

C

Periyar and Pareekanni Rubbers Ltd. v. State of Kerala, AIR (1990) SC 2192, held per incurium.

D

Prem Nath Kapur & Anr. Etc. v. National Fertilizers Corporation of India Ltd. & Ors., C.A. 11398/95 etc. decided by S.C. on November 29, 1995, referred to.

E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2872 of 1996 Etc. Etc.

From the Judgment and Order dated 8.10.91 of the Bombay High Court in F.A. No. 687 of 1979 with C.O.S. No. 554 of 1983.

F

S.K.C. Pasi and V.S. Kulkarni for the Appellants.

S.M. Jadhav and D.M. Nargolkar for the Respondent.

The following Order of the Court was delivered :

G

Leave granted.

The only question is : whether the appellants are entitled to payment of interest on solatium payable under Section 23(2) of the Land Acquisition Act(Act 1 of 1894) (for short, 'the Act'). The additional amount was awarded by the reference Court on December 15, 1979 enhancing the

H

A compensation. The High Court by its judgment dated 4.12.1995 has further enhanced the compensation to Rs. 42,056.15. The appellants claimed interest on solatium of Rs. 6308.42 which was disallowed by the High Court. The interest on solatium was calculated from 1.1.1967 to 31.12.1971. The appellants placed reliance on a judgment of this Court in *Periyar and Pareekanni Rubbers Ltd. v. State of Kerala*, AIR (1990) SC 2192 contending that interest on solatium is a part of the component under Section 23(1) of the Act and that, therefore, they are entitled to payment of the interest. The High Court, therefore, was not right in refusing interest on solatium. To appreciate the contention it is necessary to look to the provisions of the Act.

C Section 28 gives power to the Court to award interest when the Court enhances the compensation in excess of amount awarded by the Collector at the rate specified therein, namely, preceding the Amendment Act 68 of 1984, at 6% per annum under the Central Act or at the rates as per the appropriate Act amended by the local amendments to the Act. After the Amendment Act coming into force w.e.f. September 24, 1984 the claimants would be entitled to interest at 9% p.a. for one year from the date of taking possession and on expiry thereof, at 15% p.a. till the date of the deposit into the Court.

E Section 23(1) envisages that in determination of compensation to be awarded for the land acquired under the Act, the Court shall take into consideration the respective criteria laid in Clauses (1) to (6) applicable to the given facts of the case. Therefore, the Court is empowered under Section 23(1) to determine compensation to be awarded to the claimant.

F Section 23(2) provides that "in addition" to the market value of the land as above provided, the Court shall in every case award a sum at 15% preceding the Amendment Act and after the Amendment Act, 30% p.a. on such market value in consideration of the compulsory nature of the acquisition. The legislation, therefore, made a distinction between compensation under Section 23(1) and the additional amount on such market value as solatium in consideration of compulsory nature of acquisition. In other words, Section 28 does not comprehend payment of interest on solatium when it expressly mentions payment of interest on compensation under Section 28 referable to Section 23(1) of the Act. Thus the High Court was right in not awarding interest on solatium. Similar view was taken by this

Court after *Periar's* case (supra) by a three-Judge Bench in *Prem Nath Kapur & Anr. etc. v. National Fertilizers Corporation of India Ltd. & Ors.*, C.A. 11398/95 etc. decided on November 29, 1995. A

It is true that in *Periyar's* case this Court had held that interest on solatium is part of the component under Section 23(1). Unfortunately, neither the provisions were considered nor the distinction of the above provisions had been brought to the notice of this Court at that time. B Therefore, mistaken view was taken to hold that interest on solatium is part of the component of compensation under Section 23(1) of the Act. It is needless to mention that under Section 28 the claimants will be entitled to the interest on enhanced compensation from the date of the award of the Court under Section 26 and on appeal under Section 54 on the respective C compensation, if enhanced, till date of deposit in the Court. Therefore, the State is required to deposit the balance of interest on the enhanced compensation till date of deposit into the Court.

The appeals are accordingly disposed of but, in the circumstances, D without costs.

G.N.

Appeals disposed of.