

A

THE STATE OF PUNJAB

v.

AVTAR SINGH AND ORS.

DECEMBER 9, 1994—

B

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

Land Acquisition Act, 1894 : Sections 23 (1-A), 23(2) and 28—Proviso (As amended by Land Acquisition (Amendment) Act 68 of 1984)—Applicability of.

C

In a land acquisition case the arbitrator awarded compensation on January 25, 1972. On reference the Additional District Judge, by his award dated 5th March, 1973 granted enhanced compensation with solatium and interest. The High Court disposed of the case on November 17, 1982 but subsequently, on claimant's application, modified the decree, applied the Land Acquisition (Amendment) Act, 1984 and granted benefit of higher solatium and interest. State of Punjab preferred appeal to this Court.

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Allowing the appeal and setting aside the order of High Court, this Court

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HELD: The Land Acquisition Amendment Act 68/84 does not apply to an award made by the Civil Court prior to introduction of the Land Acquisition Amendment Bill. Section 28 proviso and Section 23 (2) as amended by Act 68/84 would apply to an award made by the Collector or Civil Court between April 30, 1982 to September 24, 1984 and have no application to pending appeals in the High Court or Supreme Court. Equally section 23(1A) does not apply to a notification under section 4(1) published prior to April 30, 1982. The claimants are, therefore, not entitled to the payment of solatium at 30% and interest at 9% and 15% respectively under section 23(2) of the Act and proviso to section 28 of the Act on the enhanced compensation. Equally under section 28, of the Principal Act, claimant was entitled to only 6% interest on the enhanced compensation from the date of taking possession. In this case since lands were initially requisitioned and rent was paid till date of acquisition, the claimants are entitled to interest only from the date of award by the Collector. [451 H, 452 A to C]

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Union of India v. Raghbir Singh, [1989] 2 SCC 754 and *K.S. Paripoornan v. State of Kerala*, [1994] 5 SCC 593, relied on. A

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 9462 of 1994.

From the Judgment and Order dated 20.7.87 of the Punjab and Haryana High Court in R.A. No. 23.-CII/87 D-B. B

Ranbir Yadav and G.K. Bansal for the Appellant.

A.T.M. Sampath and Mrs. S. Bagga for the Respondents.

The following Order of the Court was delivered: C

Leave granted.

Heard counsel for the parties.

Originally land admeasuring 54 Kanals 11 Marlas was requisitioned by the Dist. Magistrate Amritsar by a Notification published on September 9, 1946 for para-military purposes. Subsequently notification under S. 4 of the Land Acquisition Act was published by the State Government on dated June 30, 1965. The arbitrator awarded the compensation on January 25, 1972. On reference, compensation was enhanced to Rs. 30 per square yard by the award dated March 5, 1973 together with solatium at 15% and interest at 12% from the date of acquisition till payment was made on behalf of the State. The claimants F.A.O. No. 76/73 was disposed of by the High Court on November 17, 1982. Subsequently, an application was made under sections 152 and 151 of C. P. C. requesting the High Court to amend the decree applying the Land Acquisition (Amendment) Act 68 of 1984. The High Court allowed C.M. No. 2911-C/1986 on dated July 22, 1986 granting the benefits of 30% solatium instead of 15% solatium and also interest on 9% for one year from the date of taking possession and thereafter @ 15% after the expiry of one year till date of payment or deposit whichever is earlier. The order in First Appeal is accordingly modified. A Review Petition filed was also dismissed. Thus this appeal by special leave. D
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It is now settled law by this court in *Union of India v. Raghbir Singh*, [1989] 2 SCC 754 and *K.S. Paripoornan v. State of Kerala*, [1994] 5 SCC 593, the L.A. Amendment Act 68/84 does not apply to an award made by the Civil Court prior to introduction of the L.A. Amendment Bill. Section 28 proviso and section 23 (2) as amended by Act 68/84 would apply to an H

- A award made by the Collector or Civil Court between April 30, 1982 to September 24, 1984 and have no application to pending appeals in the High Court or Supreme Court. Equally section 23(1A) does not apply to a notification under section 4(1) published prior to April 30, 1982. The Addl. Dist. Judge made an award in this case on March 5, 1973. The claimants are, therefore, not entitled to the payment of solatium at 39% and interest at 9% and 15% respectively under section 23(2) of the Act and proviso to section 18 of the Act on the enhanced compensation. Equally under section 28, the Principal Act claimant was entitled to only 6% interest on the enhanced compensation from the date of taking possession. In this case since lands were initially requisitioned and rent was paid till date of acquisition, the claimants are entitled to interest only from the date of award by the Collector. The order of the High Court dated July 22, 1986 is set aside, instead the respondents-claimants are entitled to 15% solatium on the enhanced compensation and interest at 6% on the enhanced compensation from the date of the award *i.e.* January 25, 1972. The appeal is accordingly allowed. No costs.
- B
- C
- D T.N.A. Appeal allowed.