

ITEM NO.101

COURT NO.12

SECTION XVIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 1928/2007

GURDWARA GURU NANAK DEVI JI & ORS.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH

SLP(C) No. 6776/2008

(With Office Report)

Date : 02/05/2017 This matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE AMITAVA ROY

For Appellant(s) Mr. Neeraj Kumar Jain, Sr. Adv.
 Mr. Sanjay Singh, Adv.
 Mr. Sachin Jain, Adv.
 Ms. Bechhiwal, Adv.
 Mr. umang Shankar, Adv.
 Mr. Ugra Shankar Prasad, Adv.

Mr. Chinmay Khaladkar, Adv.
 Ms. Neelam Kalsi, Adv.
 Ms. Prerna Chaturvedi, Adv.
 Mrs Rani Chhabra, Adv.

For Respondent(s) Mr. P.S. Patwalia, ASG
 Mr. R. Balasubramanian, Adv.
 Mr. Dhruv Sharma, Adv.
 Mr. Ranjeet Kumar, Adv.
 Mr. Mukul Singh, Adv.
 Ms. Aarti Sharma, Adv.
 Mrs. Anil Katiyar, Adv.

Mr. B. Krishna Prasad, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed to the extent indicated
in the signed order.

(NEELAM GULATI)

COURT MASTER

(TAPAN KR. CHAKRABORTY)

COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 1928 OF 2007

GURDWARA GURU NANAK DEVI JI & ORS.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH

CIVIL APPEAL No(s). 6473 OF 2017
(Arising out of SLP(C) No. 6776/2008)

O R D E R

Heard learned counsel for the parties.

Leave granted.

The question in the present appeals is with respect to the payment of interest and solatium under the provisions of Requisition and Acquisition Of Immovable Property Act, 1952 and the Jammu and Kashmir Requisitioning and Acquisition of Immovable Property Act, 1968 on the basis of analogy of the provision under Sections 23 & 34 of the Land Acquisition Act, 1894 (in

short 'the 1894 Act').

The matters are no more res integra. A Constitution Bench of this court had decided the question authoritatively in Union of India vs. Chajju Ram (Dead) by Lrs. & Ors. [(2003) 5 SCC 568], in which it was held by this Court that in the absence of provisions of payment of solatium and interest in the Act, the Defence of India Act, 1962 cannot be said to be discriminatory on the basis of parity claimed with the provisions of the 1894 Act. The classification which had been made under the Defence of India Act, 1962 has been found to be reasonable and has also been held that solatium and interest on the basis of parity of the 1894 Act can not be claimed. Such claim is not legally sustainable. In the facts and circumstances it was directed interest and solatium not to be recovered. This court further observed that the order shall not be treated as precedent.

This court considered the question again in Union of India vs. Hari Krishan Khosla (dead) by Lrs. [1993 Supp.(2) SCC 149], Union of India & Ors.

vs. Dhanwanti Devi [(1996) 6 SCC 44], Haji Mohd. Ekramul Haq vs. State of W.B. [AIR 1959 SCC 488], Nagpur Improvement Trust v. Vithal Rao [(1973) 1 SCC 500], U.P. Avas Evam Vikas Parishad v. Jainul Islam [(1998) 2 SCC 467] and Prakash Amichand Shah vs. State of Gujarat [1986(1) SCC 581] and similar view has been taken

Learned counsel appearing on behalf of the respondent had placed reliance on a decision of this court in Union of India vs. Parmal Singh & Ors. [(2009) 1 SCC 618] where this court had considered the provisions of the 1894 Act, Defence of India Act, 1962 and has directed the payment of interest on the basis of analogy of the provision of the Section 4(1) of the Interest Act, 1978 and in the peculiar facts of the case when the acquisition took place, in the year 1965 four decades had elapsed land owners had not been given the compensation in entirety and when arbitrator awarded the interest, it was not challenged by the appellant and they had accepted the award of interest. In the peculiar facts of the said case the court granted 6% interest on the basis of

equitable principle. Considering the principles in Section 34 of the Code of Civil Procedure, 1908 also from the date of award, interest can be awarded. Though its trite law that interest and solatium cannot be claimed on the basis of the parity of provisions contained in Sections 23 & 34 of the 1894 Act.

In the fact and circumstances of the instant case, since there was some delay in the case in payment of the compensation, it would be appropriate on the basis of equitable principle to award interest at the rate of 6% for the period of delay on compensation ultimately determined from the date of original award which ought to have been passed, determining correct compensation. Thus the interest is ordered to be paid @ 6% p.a. for the period of delay that too from the date of the Award till the amount was paid/deposited in court.

The appeals are allowed to the aforesaid extent.

.....J.
(ARUN MISHRA)

.....J.
(AMITAVA ROY)

NEW DELHI ;
MAY 02, 2017