

Supreme Court of India

State Of Punjab vs Avtar Singh And Others on 9 December, 1994

Equivalent citations: 1995 SCC (1) 383, 1994 SCALE (5)329

Author: K Ramaswamy

Bench: Ramaswamy, K.

PETITIONER:

STATE OF PUNJAB

Vs.

RESPONDENT:

AVTAR SINGH AND OTHERS

DATE OF JUDGMENT 09/12/1994

BENCH:

RAMASWAMY, K.

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RAMASWAMY, K.

VENKATACHALA N. (J)

CITATION:

1995 SCC (1) 383

1994 SCALE (5) 329

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. Leave granted.

2. Heard counsel for the parties.

3. Originally land admeasuring 54 kanals 11 marlas was requisitioned by the District Magistrate, Amritsar by a notification published on 9-9-1946 for paramilitary purposes. Subsequently, notification under Section 4 of the Land Acquisition Act was published by the State Government on 30-6-1965. The arbitrator awarded the compensation on 25-1-1972. On reference, compensation was enhanced to Rs 30 per square yard by the award dated 5-3-1973 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 FAO No. 76 of 1973 was disposed of by the High Court on 17-11-1982. Subsequently, an application was made under Sections 152 and 151 of CPC requesting the High Court to amend the

decree applying the Land Acquisition (Amendment) Act, 1984 (68 of 1984). The High Court allowed CM No. 2911 -C of 1986 on 22-7-1986 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.

4. It is now settled law by this Court in *Union of India v. Raghubir Singh*¹ and *K.S. Paripoornan v. State of Kerala*² the LA Amendment Act 68 of 1984 does not apply to an award made by the civil court prior to introduction of the LA Amendment Bill. Section 28 proviso and Section 23(2) as amended by Act 68 of 1984 would apply to an award made by the Collector or civil court between 30-4-1982 to 24-9-1984 and have no application to pending appeals in the High Court or Supreme Court. Equally Section 23(1-A) does not apply to a notification under Section 4(1) published prior to 30-4-1982. The Additional District Judge made an award in this case on 5-3-1973. The claimants are, therefore, not entitled to the 1(1989) 2 SCC 754 2(1994) 5 SCC 593 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 the 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 22-7-1986 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. 25-1-1972. The appeal is accordingly allowed. No costs.