

Subodh Singh
v.
Union of India and Others
(Civil Appeal No. 6458 of 2024)
16 May 2024
[Hima Kohli and Ahsanuddin Amanullah, JJ.]

Issue for Consideration

Whether the appellant is entitled to additional compensation for the left out portion of land at least @ 5% of the value of the award for a period spreading over 84 months.

Headnotes

Compensation – Additional compensation for the left out portion of land – Payment towards the delay only to two months – Appellant claimed payments towards delay of 84 months – Correctness:

Held: Respondents had acquired a land by Notifications issued u/s. 20(E)(1) of the Indian Railways Act, 1989 – An award was declared on 08.02.2010 in respect of land that respondent acquired – A parcel of land admeasuring 0.0624 Hectare was left out – The High Court vide order dated 20.09.2016 directed the respondents to provide compensation to the appellant for 0.0624 Hectare of land, which was left out, along with additional compensation – While calculating the additional compensation, respondent confined the same to a period of two months for delayed period – Appellant claimed that he was entitled to compensation for a period of 84 months and relied on one Kamla Devi & Ors. – This Court noted that an order dated 18.09.2017, passed by the Competent Authority refers to an order dated 19.07.2017, passed by the High Court in a Writ Petition filed by Kamla Devi and others and goes on to record that after completion of formalities of publication, some portion of the land admeasuring 0.0890 Hectare had been left out, as the same was not required for the subject project – Subsequently, another award was declared in respect of the left out area and additional compensation was paid to the land owners @ 5% per month of the award for a period of 66 months, i.e. from 19.04.2012 to 12.09.2017 – In light of the above, the appellant herein cannot be treated differently in his case, the respondents ought not to have confined the delayed payment on the

Subodh Singh v. Union of India and Others

awarded amount for the left out portion of land to only two months – Thus, the appellant is held entitled to additional compensation for the left out portion of land at least @ 5% of the value of the award for a period spreading over 84 months. [Paras 3, 4, 9, 12]

Case Law Cited

Dedicated Freight Corridor Corporation of India v. Subodh Singh
[2011] 3 SCR 1160 : (2011) 11 SCC 100 – referred to.

List of Acts

Indian Railways Act, 1989.

List of Keywords

Compensation; Additional compensation; Award; Delay in payment; Payment of additional compensation; Additional compensation for left out portion of land.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 6458 of 2024
 From the Judgment and Order dated 31.08.2017 of the High Court of Judicature at Allahabad in WC No. 39875 of 2017

Appearances for Parties

S. B. Upadhyaya, Sr. Adv., Aftab Rasheed, Aftab Ali Khan, M. Z. Chaudhary, Mansur Ali Khan, Rahat Ali Chaudhary, M.A. Mansoori, Advs. for the Appellant.

K M Nataraj, A.S.G., Amrish Kumar, Mrs. Indira Bhakar, Anuj Udupa, Manoj Mishra, Chitvan Singhal, Padmesh Mishra, Saurabh Mishra, Shrimay Mishra, Abhinav Pandey, Rakesh Chander, Nirbhaya S Tewari, Advs. for the Respondents.

Judgment / Order of the Supreme Court

Order

1. Leave granted.
2. The present appeal is directed against the order dated 31st August, 2017, passed by the Division Bench of the High Court of Judicature at Allahabad whereby, the Writ Petition filed by the appellant herein praying *inter alia* for issuing directions to the respondents to pay

Digital Supreme Court Reports

additional compensation for the entire land area, subject matter of the Notification dated 12th December, 2008, issued under Section 20(E)(1) of the Indian Railways Act¹, 1989, at the rate higher than 5% per month and further pay interest @ 18% per annum for delay in payment from 30th March, 2011, i.e. the date on which this Court had passed an order in Civil Appeal No. 2794 of 2011² titled “Dedicated Freight Corridor Corporation of India Vs. Subodh Singh”, till the actual date of payment in respect of the award dated 08th February, 2010.

3. It is submitted on behalf of the appellant that the respondents had acquired land in Village Kakrahi, Tehsil and District Auriya, Uttar Pradesh *vide* Notifications dated 10th June, 2008 and 16th December, 2008 issued under Section 20(E)(1) of the Act. An award was declared on 08th February, 2010 only in respect of the land that the respondents required. As a result, a parcel of land admeasuring 0.0624 Hectare was left out. Aggrieved by the said action, the appellant filed a Writ Petition³ before the High Court for quashing the award dated 08th February, 2010, which was allowed *vide* order dated 12th May, 2010. Challenging the said order, the respondents filed a Petition for Special Leave to Appeal⁴ before this Court, which was allowed *vide* judgment dated 30th March, 2011 holding *inter alia* that the acquisition in question had not lapsed and having regard to the second proviso to section 20F(2) of the Act, the land owners would be entitled to an additional compensation for the delay in making the payment in terms of the award dated 08th February, 2010, at a rate not less than 5% of the value of the award for each month of delay.
4. Pursuant to the aforesaid order, the respondent no.2 issued a certificate in respect of the entire parcel of land in terms of the Notification dated 12th December, 2008, again leaving an area of 0.0624 Hectare as free from acquisition proceedings. Being aggrieved by the said decision, the appellant filed another petition⁵ before the High Court, which was allowed *vide* order dated 20th September, 2016 and the respondents were directed to provide compensation

1 For short the ‘Act’

2 [2011] 3 SCR 1160 : (2011) 11 SCC 100

3 Writ C. No. 14945/2010

4 SLP(Civil) No. 26410 of 2010 (i.e. Civil Appeal No. 2794/2011)

5 Writ C. No. 63467/2011

Subodh Singh v. Union of India and Others

to the appellant for 0.0624 Hectare of land along with additional compensation within a period of two months.

5. On 19th November, 2016, the respondents prepared a bank draft for a sum of ₹ 2,74,56,000/- (Rupees Two Crores Seventy Four Lakh Fifty Six Thousand) stating that the same was in respect of the compensation payable to the appellant in terms of the order passed by the High Court on 20th September, 2016. While calculating the additional compensation, the respondent no.2 confined the same to a period of two months for the delayed period.
6. Aggrieved by the compensation offered by the respondents limiting the delay to only two months, the appellant approached the High Court by filing yet another petition⁶ claiming that he was entitled to compensation for a period of 84 months, which would come to Rs.10,23,28,000/- (Rupees Ten Crores Twenty Three Lakh and Twenty Eight Thousand), on which the impugned order dated 31st August, 2017, has been passed observing that the appellant ought to approach the Arbitrator for determining the additional compensation, by invoking Section 20F (1) of the Act.
7. It is submitted on behalf of the appellant that the respondents have adopted a pick and choose policy in the instant case. While they have paid additional compensation for a period of delay of 66 months to one Smt. Kamla Devi & Ors., who were similarly situated persons like the appellant and their land was also acquired under the very same award, in the case of the appellant the respondents have arbitrarily confined the payment towards the delay only to two months, instead of 84 months.
8. We have perused the record and heard the arguments advanced by learned counsel for the parties.
9. At the outset, we may note that the order dated 18th September, 2017, passed by the Competent Authority refers to an order dated 19th July, 2017, passed by the High Court in a Writ Petition⁷ filed by Kamla Devi and others and goes on to record that after completion of formalities of publication, some portion of the land admeasuring 0.0890 Hectare had been left out, as the same was not required for

⁶ Writ C No. 39875/2017

⁷ WP No. 65267 of 2012

Digital Supreme Court Reports

the subject project. Subsequently, another award⁸ was declared in respect of the left out area and additional compensation was paid to the land owners @ 5% per month of the award for a period of 66 months, i.e. from 19th April, 2012 to 12th September, 2017. In the light of the above, the appellant herein is justified in arguing that he cannot be treated differently and in his case, the respondents ought not to have confined the delayed payment on the awarded amount for the left out portion of land to only two months.

10. The aforesaid submission is disputed by learned counsel for the respondents on a plea that no such direction was issued either by this Court or the High Court permitting compensation for the delayed period beyond two months, for which reliance is sought to be placed on the order dated 20th September, 2016 passed by the High Court.
11. The aforesaid submission is taken note of only to be turned down. The period of two months referred to by the High Court in its order dated 20th September, 2016 was only for making payment of the amount. Not that any direction was issued to the respondents to confine the payment of additional compensation only to a period of two months. In fact, the order passed by this Court on 30th March, 2011 is crystal clear and needs no interpretation. Highlighting certain anomalies noticed in Chapter IV A of the Act, particularly Section 20F, this Court referred to the proviso to Section 20F (2) and observed as follows:

“12. (iii) The second proviso to section 20F (2) requires payment of additional compensation for the delay in making of the award, at the rate of not less than five percent of the value of award, for each month of delay. This vests unguided discretion in the competent authority or the Arbitrator to award additional compensation at any higher rate and gives room for unnecessary litigation at the instance of “entitled persons” claiming higher percentages as additional compensation. It is necessary to consider whether specifying a fixed monthly rate of increase would serve the ends of justice better instead of indicating a minimum rate per month.

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Subodh Singh v. Union of India and Others

“13. In view of our finding that the acquisition has not lapsed, we allow this appeal, set aside the judgment of the High Court, and dismiss the challenge to the acquisition. It is however made clear that in view of the delay in making the award beyond one year, the first respondent shall be entitled to additional compensation as provided under the second proviso to section 20F (2) of the Act. Parties to bear their respective costs.”

12. It is apparent from the above that the appellant would be entitled to additional compensation for the delay in making the award @ not less than 5% of the value of the award for each month's delay. In our opinion, there was no reason for the High Court to have relegated the appellant to initiate any arbitration proceedings for determining the additional compensation when the order passed by this Court had clarified the manner in which compensation would be calculated and paid for the delay in making the award for the left out parcel of land.
13. In view of the above discussion, the present appeal succeeds. The appellant is held entitled to additional compensation for the left out portion of land at least @ 5% of the value of the award for a period spreading over 84 months. Needless to state that the amount already paid by the respondents towards the delay, i.e., for a period of two months, shall be duly adjusted. The remaining amount shall be released by the respondents within eight weeks from today. Besides the aforesaid amount, the appellant shall also be entitled to simple interest on the outstanding amount calculated @ 7% per annum from the date the said amount became due and payable, till the same is realized.
14. The appeal is allowed on the above terms while leaving the parties to bear their own expenses.

Headnotes prepared by: Ankit Gyan

Result of the case:
Appeal allowed.