

**Union of India & Anr.**

v.

**Dr. Asket Singh & Ors.**

(Civil Appeal Nos. 1636-1637 of 2016)

01 May 2024

**[Abhay S. Oka\* and Ujjal Bhuyan, JJ.]**

**Issue for Consideration**

Matter pertains to the challenge to the relief of solatium and interest on the compensation amount granted by the High Court.

**Headnotes**

**Requisitioning and Acquisition of Immovable Property Act, 1952 – s. 8(1)(a) – Compensation – Delay in payment of – Grant of solatium and interest by the High Court – Challenge to:**

**Held:** Right to hold immovable property is no longer a fundamental right but is a right u/Art. 300A – On facts, land owned by the first respondent stood vested in the Central Government in the year 1964 – Offer for payment of compensation was made by the Collector belatedly after 12 years in 1976 – Delay of more than 12 years attributable solely to the Central Government – Since the respondents declined to accept the offer, the Arbitrator was appointed in 1976, it took slightly less than 20 years to conclude the proceedings – Nothing on record that the proceedings were delayed due to any conduct attributable to the first respondent – Delay in appointing the arbitrator must be attributed to the Central Government, as the Central Government took 12 years to offer compensation – In effect, market value prevailing on the date of acquisition was paid to the owners after lapse of more than 30 years from the date of vesting – As there are no provisions under the 1952 Act to compensate the owner for the delay in making payment of compensation, in such cases, solatium and interest must be paid by the Central Government – Compensation must be paid to the owner of the acquired property within a reasonable time from the date on which the acquired property vested in the acquiring body – Requirement of making payment of compensation within a reasonable time from the date of vesting must be read

\* Author

## Digital Supreme Court Reports

into the 1952 Act – Long delay of 12 years even in offering compensation would attract arbitrariness which is prohibited by Art. 14 – Considering the huge delay involved in payment of compensation, the High Court rightly granted solatium and interest – As the first respondent has been paid compensation 7 years back, no costs imposed – Constitution of India – Arts. 14, 300A. [Paras 7-10]

### Case Law Cited

*Harbans Singh Shanni Devi v. Union of India; Union of India v. Chajju Ram* [\[2003\] 3 SCR 647](#) : (2003) 5 SCC 568; *Dilawar Singh & Ors. v. Union of India & Ors.* [\[2010\] 12 SCR 1059](#) : (2010) 14 SCC 357; *Union of India v. Hari Krishan Khosla* [\[1992\] Supp. 1 SCR 620](#) : 1993 Supp. 2 SCC 149 – referred to.

### List of Acts

Requisitioning and Acquisition of Immovable Property Act, 1952.

### List of Keywords

Compensation; Delay in payment of compensation; Grant of solatium; Grant of interest; Right to hold immovable property; Fundamental right; Delay; Date of acquisition; Arbitrariness; Costs.

### Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1636-1637 of 2016

From the Judgment and Order dated 29.04.2015 of the High Court of Punjab and Haryana at Chandigarh in FAO Nos. 2307 and 2673 of 1998

### Appearances for Parties

Mukul Singh, Indira Bhakar, Sharath Nambiar, Shubham Saxena, Vineet Singh, Dr. Arun Kumar Yadav, T. S. Sabarish, Udai Khanna, Dr. N. Visakamurthy, Arvind Kumar Sharma, Advs. for the Appellants.

Ms. Rajshree Bhatnagar, T. R. B. Sivakumar, Advs. for the Respondents.

**Union of India & Anr. v. Dr. Asket Singh & Ors.****Judgment / Order of the Supreme Court****Judgment****Abhay S. Oka, J.**

Heard the learned counsel appearing for the parties.

2. The facts of the case are glaring. The respondents are the owners of the lands subject matter of these appeals. At the instance of the Ministry of Defence, acquisition proceedings were initiated under the Requisitioning and Acquisition of Immovable Property Act, 1952 (for short “the 1952 Act”). A notice of acquisition under Section 7 of the 1952 Act was issued on 26<sup>th</sup> March, 1964 which was published in the State Government Gazette on 3<sup>rd</sup> April, 1964. The vesting of the acquired property was complete on publication of the notice in the official gazette.
3. The provisions for grant of compensation in respect of the acquired land are found in Section 8 of the 1952 Act. The first option provided therein is to fix the compensation by an agreement between the acquiring body and the owners. If there is no such agreement, under clause (b) of sub-section (1) of Section 8, the Central Government is required to appoint an arbitrator for determining the amount of compensation payable. An offer for payment of compensation was made by the appellants belatedly after 12 years on 16<sup>th</sup> August, 1976. The respondents declined to accept the said offer. Therefore, the Land Acquisition Officer addressed a letter to the Government on 8<sup>th</sup> October, 1976 to appoint an arbitrator. Accordingly, the Additional District Judge, Gurdaspur was appointed as the Arbitrator. Nearly 22 years thereafter on 8<sup>th</sup> May, 1998, the award was declared by the Arbitrator by which he came to the conclusion that the market value of the acquired land was Rs.150/- per Marla.
4. An appeal was preferred by the first respondent as well as by the present appellants for challenging the award of the Arbitrator. By the impugned judgment, the High Court held that the market value ought to be Rs.350/- per Marla which was determined in the cases of similarly situated acquired lands. As there was a gross and inordinate delay in completing the arbitral proceedings for determination of the market value, relying upon the decisions of this Court in the cases of *Harbans Singh Shanni Devi v. Union*

## Digital Supreme Court Reports

*of India*<sup>1</sup> and *Union of India v. Chajju Ram*<sup>2</sup> which were followed by this Court in a decision in the case of *Dilawar Singh & Ors. v. Union of India & Ors.*<sup>3</sup>, the High Court granted solatium at the rate of 30% of the market value and interest on the compensation amount at 9% and 15%.

5. The submission of the learned counsel appearing for the appellants is that the relief of solatium and interest has been granted in earlier cases by this Court where there was a delay on the part of the Central Government in appointing an Arbitrator for determination of compensation. In this case, the delay is mainly in disposal of the arbitral proceedings. He, therefore, submitted that the High Court ought not to have awarded both solatium and interest. The learned counsel appearing for the first respondent pointed out that in terms of the impugned judgment, the first respondent has received the entire compensation amount about 7 years back.
6. It will be useful to refer to paragraphs 9 and 10 of the decision of this Court in the case of *Dilawar Singh*<sup>3</sup> which reads thus:

“9. It is common ground that the provisions of the Requisitioning and Acquisition of Immovable Property Act, 1952 do not make any provision for the grant of solatium or interest to the expropriated landowners. The absence of any such provision in the said act was in fact made a basis for a challenge to the constitutional validity of the enactment which was repelled by this Court in *Union of India v. Hari Krishan Khosla*<sup>4</sup>. This Court pointed out that any comparison between acquisition made under the Requisitioning and acquisition Act would be odious in view of the dissimilarities between the two enactments. That decision was followed in subsequent pronouncements of this Court in *Union of India v. Chajju Ram*<sup>2</sup> where a similar attack was mounted against the constitutional validity of the Defence of India Act, 1971 but repelled by this Court relying upon the decision in *Hari Krishan Khosla*<sup>4</sup>.

---

1 decided on 11th February, 1985 in Civil Appeal No.470-471 of 1985

2 [2003] 3 SCR 647 : (2003) 5 SCC 568

3 [2010] 12 SCR 1059 : (2010) 14 SCC 357

4 [1992] Supp. 1 SCR 620 : 1993 Supp (2) SCC 149

**Union of India & Anr. v. Dr. Asket Singh & Ors.**

10. What is noteworthy is that in both these matters this Court had made a distinction between cases in which there was inordinate delay in the appointment of an arbitrator and consequent delay in the determination of the amount of compensation payable to the owners and other case where there was no such delay. In para 79 of the judgment of this Court in *Hari Krishan Khosla*<sup>4</sup>, this Court observed:

“79. This is a case in which for 16 years no arbitrator was appointed. We think it is just and proper to apply the principle laid down in *Harbans Singh Shanni Devi v. Union of India*<sup>1</sup>. The Court held as under:

Having regard to the peculiar facts and circumstances of the present case and particularly in view of the fact that the appointment of the arbitrator was not made by the Union of India for a period of 16 years, we think this is a fit case in which solatium at the rate of 30% of the amount of compensation and interest at the rate of 9% per annum should be awarded to the appellants. We are making this order having regard to the fact that the law has in the meanwhile been amended with a view to providing solatium at the rate of 30% and interest at the rate of 9% per annum.”

7. As noted in the said decision, there is no provision for grant of solatium and interest under the 1952 Act.
8. It is true that the right to hold immovable property is no longer a fundamental right but it is a right under Article 300A of the Constitution of India. Considering the peculiar provisions of the 1952 Act, the

**Digital Supreme Court Reports**

land owned by the first respondent stood vested in the Central Government on 3<sup>rd</sup> April, 1964. Therefore, the compensation ought to have been paid to the first respondent within a reasonable time from 3<sup>rd</sup> April, 1964. Under clause (a) of sub-section (1) of Section 8, there is a provision to decide the amount of compensation by an agreement. Such agreement could have been arrived at, provided the Central Government had submitted their proposal or offer to the first respondent. However, the offer was actually made by the Collector in August, 1976. Thus, there was no attempt made by the Central Government to bring about the consensus on the market value for a period of more than 12 years. Inordinate time of 12 years was taken by the Government to offer compensation to the first respondent. We must record here that this delay of more than 12 years is attributable solely to the Central Government. After the Arbitrator was appointed on 8<sup>th</sup> October, 1976, it took slightly less than 20 years to conclude the proceedings. There is nothing placed on record to show that the proceedings were delayed due to any conduct attributable to the first respondent. The delay in appointing the arbitrator must be attributed to the Central Government, as the Central Government took 12 years to offer compensation. In effect, market value prevailing on the date of acquisition was paid to the owners after lapse of more than 30 years from the date of vesting.

9. After having perused the aforesaid decisions of this Court, we find that as there are no provisions under the 1952 Act to compensate the owner for the delay in making payment of compensation, a direction was issued by this Court that in such cases, solatium and interest must be paid by the Central Government. The main reason for taking the said view is that the compensation must be paid to the owner of the acquired property within a reasonable time from the date on which the acquired property vested in the acquiring body. The requirement of making payment of compensation within a reasonable time from the date of vesting must be read into the 1952 Act. In fact, such a long delay of 12 years even in offering compensation will attract arbitrariness which is prohibited by Article 14 of the Constitution of India. The first respondent had an option of even seeking quashing of the acquisition on the ground of this arbitrariness which may have violated his rights under Article 300A of the Constitution of India.

**Union of India & Anr. v. Dr. Asket Singh & Ors.**

10. Considering the huge delay involved in payment of compensation, the High Court has rightly granted solatium and interest in terms of the decisions of this Court. In fact, we are surprised to note that the appellants have dragged the first respondent to this Court. There is absolutely no merit in these appeals. As the first respondent has been paid compensation 7 years back, we are refraining from imposing costs.
11. Hence, the appeals are dismissed.

*Headnotes prepared by:* Nidhi Jain

*Result of the case:*  
Appeals dismissed.