

PETITIONER:
STATE OF HARYANA

Vs.

RESPONDENT:
SMT. KAMALA & ORS.

DATE OF JUDGMENT: 30/04/1996

BENCH:
K. RAMASWAMY, G.B. PATTANAIAK

ACT:

HEADNOTE:

JUDGMENT:

THE 30TH DAY OF APRIL, 1996

Present:

Hon'ble Mr. Justice K.Ramaswamy
Hon'ble Mr. Justice G.B.Pattanaik

Ms. Kavita Walia and Ashok K.Mahajan, Advs. for the Respondents.

O R D E R

The following Order of the Court was delivered:

Leave granted .

Heard learned counsel for both sides.

This appeal by special leave arises against the judgment and order of the High Court of Punjab & Haryana in Civil Revision No. 3319 of 1992 dated January 21, 1993.

A notification under Section 4(1) of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the 'Act') was published on November 4, 1997. The Land Acquisition Collector in his award made under Section 11 of the act on October 28, 1981 awarded compensation at the rate of Rs. 30,000/- per acre. Dissatisfied therewith, the respondents filed application under Section 18 of the act. The Additional District Judge by his award and decree dated April 6, 1985 awarded compensation at the rate of Rs. 18/- per square yard. The respondents levied execution regarding recovery of the amount on October 12, 1992. The District Judge by his order dated July 18, 1992 awarded additional amount under Section 23(1-A) of the Act and also enhanced the interest under Section 28 of the Act at the rate of 9 per cent per annum for the first year and 15 per cent per annum thereafter till the date of realisation. The appellant carried the matter in revision but the High Court dismissed the revision. Thus this appeal by special leave.

It has been well-settled legal position that the claimant is not entitled to payment of additional amount of compensation under section 23(1-A) when the award proceedings have been concluded long prior to the introduction of the Amendment Act 68 of 1984. It is settled by catena of decisions of this Court that the executing Court is devoid of jurisdiction and power to award additional amount of compensation or to enhance the interest in execution. The Court gets power and jurisdiction on

reference when it enhances compensation or on appeal under Section 54 enhances the compensation to award additional amount of compensation under Section 23(1-A) or solatium at 30% under Section 23(2) or interest under Section 28 under Amendment Act 68 of 1984. The executing Court, therefore, travelled beyond its jurisdiction to award additional amount under Section 23(1-A) and also interest under Section 28 of the Act. The High Court was, therefore, in clear error in dismissing the civil revision. The amended decree of the execution Court stands set aside.

The appeal is accordingly allowed. No costs.

JUDIS