

PETITIONER:
VIJAY COTTON AND OIL MILLS (P) LTD.

Vs.

RESPONDENT:
STATE OF GUJARAT

DATE OF JUDGMENT 06/12/1990

BENCH:
KULDIP SINGH (J)
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KULDIP SINGH (J)
KASLIWAL, N.M. (J)

CITATION:
1991 AIR 656 1990 SCR Supl. (3) 447
1991 SCC (1) 262 JT 1990 (4) 771
1990 SCALE (2) 1194

ACT:

Land Acquisition Act, 1894 Section 6(1), 23 & 26--Costs and interest can be awarded by higher courts if not awarded by lower court.

HEADNOTE:

The appellant owned land in Kutch District and the Government of Gujarat took its possession on a specific understanding that in exchange the Government would give to it land of equal value but the Government resided and issued a notification under section 6(1) of the Land Acquisition Act, 1894 straightaway declaring that the land in question was needed for public purpose. The collector awarded Rs.5,075/44 np as compensation. At the instance of the appellant, a reference to the Court was made under Section 18 of the Act and the District Judge determined the compensation at the rate of Rs.3 per sq. yard on the basis of the market value of the land on the date of the notification and paid solatium and interest from that date. The State preferred an appeal against the award of the District Judge before the High Court but the appellant did not appeal against that part of the award which went against him but filed Cross-objections which being time-barred were dismissed. In the Cross-objections the appellant had inter alia claimed interest from November 19, 1949 the date when the land in question was taken over by the Government and not from February 1, 1955, the date when the notification under the Land Acquisition Act was issued. The High Court ruled that the compensation could only be determined on the basis of the market value of the land on the date of the notification issued under 4(1) of the Land Acquisition Act and since such a notification had not been issued in the case. it was not possible to determine the amount of compensation payable to the appellant. The claimant appellant appealed to this Court on the strength of a certificate and this court held that the notification dated February 1, 1955 issued under Section 6 of the Act could be treated as a composite notification both under Section 4(1) as also under Section 6(1) of the Act and the district Judge could lawfully award the market value of the land. So holding, the Court remanded the matter to the High Court for disposal on merit. The High

Court on remand reduced the price of the acquired land from Rs.3 per sq. yard to 1.35 sq. yard and rejected the claim of the claimant to interest from November 19, 1949 instead of 448

February 1, 1955. as the Cross-objections failed by it were treated to be time-barred. Hence this appeal raising both the contentions reprice of the land and the award of interest., w.e.f. Feb. 1, 1955.

Partly allowing the appeal this Court;

HELD: (1) On a reference under Section 18 of the Act the parties go to trial before the Court primarily on the issue of determination of market value of the land. So far as award of interest is concerned it is never an issue between the parties. Once the conditions under Section 28 or Section 34 of the Act are satisfied the award of interest is consequential and automatic. [454G-H]

(2) The payment of interest is not dependent on any claim by the person whose land has been acquired. There can be no controversy or any lis between the parties regarding payment of interest. When once the provision of section 34 are attracted it is obligatory for the collector to pay the interest. If he fails to do so the same can be claimed from the Court in proceedings under section 18 of the Act or even from the appellate court/courts thereafter. [455B]

Reading section 23 with section 26 of the Act, it is clear that the award, which is deemed to be a decree, is the sum total of conclusions reached by the courts in determining compensation under Section 23 on appreciation of the evidence between the parties. The costs under Section 27 and the interest under Section 28 and 34 are added to the compensation amount to make it a consolidated award. The costs and interest under the Act if not awarded by the lower court can always be awarded by the higher courts in any proceedings under the Act and to any party entitled to the same under the Act. [455D-E]

JUDGMENT: