

CASE NO.:
Appeal (civil) 1710 of 2001

PETITIONER:
GIRDHARI & ORS.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT: 07/04/2005

BENCH:
B.P.SINGH & S.B.SINHA

JUDGMENT:
J U D G M E N T

Civil Appeal No.1710 of 2001 has been preferred by the claimants Girdhari & Ors. whereas Civil Appeal Nos. 1711-1712 of 2001, C.A. No. 1713 of 2001 and C.A. No.1714 of 2001 have been preferred by the Union of India. The learned Additional Solicitor General appearing on behalf of the Union of India does not press the aforesaid appeals and therefore, they are dismissed as not pressed.

In Civil Appeal No.1710 of 2001, the facts are that the land in question was requisitioned in the year 1972-1973 and thereafter on 31.3.1987 a notice under Section 7(1) of Requisition & Acquisition of Immovable Properties Act, 1952 (the Act) was issued and which was published in

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the gazette on 12.11.1987. According to the appellants there was an agreement, and consequently a resolution was passed on 18.9.1989 for payment of compensation at the agreed rate of Rs.7,000/- per bigha. However, the Collector did not act on the agreement and by his decision of 18.12.1991 he reduced the compensation to Rs.3,850/- per bigha. Ultimately, the appellants moved the High Court in view of the differences between the parties and by order dated 17.7.1992 the High Court appointed the District Judge, Jodhpur as the Arbitrator. By his Award dated 6th June, 1994 the Arbitrator allowed compensation at the rate of Rs.7,000/- per bigha in addition to solatium at the rate of 10% and interest at the rate of 4% with effect from November 12, 1987 till payment. The objections preferred against the Award were also rejected.

Since payment was not made to the appellants pursuant to the Award, they filed a writ petition before the High Court praying for a writ of mandamus directing enforcement of the Award by payment of compensation. By Judgment and Order dated 23.7.1996, the aforesaid writ petition was allowed by a learned Single Judge of the High

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Court. It appears that appeals were preferred against the said judgment by Union of India and the claimants and the appeals came to be disposed of by the impugned judgment and order dated 25.11.1997.

It is submitted on behalf of the appellant that the only question which arose in the writ petition was whether an Award could be enforced

by issuance of a writ of mandamus under Article 226 of the Constitution of India or whether the same was required to be executed as a decree of the Civil Court. The Division Bench which heard the appeal of the appellants held that the agreement of 28.9.1989 had been proved and on that basis compensation at the rate of Rs.7,000/- per bigha was justified. However, it held that solatium and interest could not be awarded by the Arbitrator and therefore, modified the Award accordingly. Against the said judgment of the Division Bench of the High Court these appeals have been preferred.

The learned Additional Solicitor General appearing on behalf of the Union of India fairly submits that since a finding has been recorded by the High Court that the

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agreement for payment of compensation at the rate of Rs.7,000/- per bigha has been proved, the Union of India will accept the same and not press this appeal. It is further submitted that in view of the decision of this Court in Union of India versus Chajju Ram (Dead) by LRs. & Ors. (2003 5 SCC 568) the provisions of the Land Acquisition Act could not be resorted to and solatium and interest could not be awarded. On the other hand, counsel for the appellant submitted that on equitable considerations this Court has in Prabhu Dayal & Ors. versus Union of India (1995 Suppl. 4 SCC 221) awarded solatium and interest, though in law the same could not be awarded. That was because there was considerable delay in appointment of Arbitrator causing prejudice to the claimant.

We have considered all aspects of the matter. It was stated before us by counsel appearing on behalf of the Union of India on instruction, that the total amount of compensation calculated at the rate of Rs.7,000/- per bigha has been deposited in Court. Counsel for the appellants states that he has no knowledge of the same. However, in the facts and circumstances of the case, we are of the view

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that interest at the rate of 9% on the compensation amount be allowed to the appellants in the interest of justice. We, accordingly, allow interest at the rate of 9% per annum from 18.9.1989 till the date of deposit of the compensation amount in Court or payment to the claimants, as the case may be.

The appeal is disposed of in the above terms.