

CASE NO.:
Appeal (civil) 2077 of 2008

PETITIONER:
UNION OF INDIA

RESPONDENT:
P.S. DAYAL PRASAD AND ANR

DATE OF JUDGMENT: 24/03/2008

BENCH:
P.P. Naolekar & Lokeshwar Singh Panta

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO.2077 OF 2008
[ARISING OUT OF SLP (CIVIL) NO.20998 OF 2005]

1. Delay condoned.
2. Leave granted.
3. Notice under Section 7(1) of the Requisitioning and Acquisition of Immovable Property Act, 1952 (hereinafter referred to as "the Act") for acquisition of 8.13 acres of land belonging to respondent No. 1 was issued on 26.2.1975. On 5.1.1977, Notification in Form 'J' was published. On 28.10.1985, the competent authority recommended compensation. The claimant was not satisfied with the compensation awarded. The matter was referred to the District Judge, who was appointed as the sole Arbitrator under the Act. The Arbitrator passed award on 23.3.1989 wherein apart from enhancing the compensation, the Arbitrator gave 6% p.a. interest over the amount of enhanced compensation. The Union of India as well as the claimant went in appeal before the High Court and the High Court by the impugned order dated 25.4.2003 further

enhanced the compensation. Over and above the enhanced compensation, it awarded solatium at the rate of 15% and 6% interest.

4. Aggrieved by the said order, the Union of India is in appeal before us by way of special leave petition.

5. It is contended by learned Additional Solicitor General appearing for the Union of India that on the awarded amount there is no provision for grant of either solatium or the interest and, therefore, the High Court has committed an error in awarding the compensation under those heads. The position in law is conceded by learned counsel for Respondent No.1-claimant. However, he has submitted that considering the fact that the competent authority was appointed in the year 1985, nearly after 8 years from the date of publication of the Notification in Form 'J', the interest and solatium granted may not be directed to be refunded. Both learned counsel have relied upon the decision in the case of Union Of India v. Hari Krishan Khosla, 1993 Supp (2) SCC 149, wherein a 3-Judge Bench of this Court while considering the provisions of Requisitioning and Acquisition of Immovable Property Act, 1952, has held that the provisions for grant of solatium and interest on the amount of compensation under the Land Acquisition Act, cannot be read into the provisions of the Act of 1952.

5. In view of the above pronouncement by a 3-Judge Bench of this Court, the High Court has committed an error in giving 15% solatium and 6% interest over the amount of compensation. However, considering the fact that although the land had been acquired by issuance of declaration on 5.1.1977 but the authority having been appointed after 8 years for determining the compensation, we do not find it appropriate to set aside the order of the High Court so far as the grant of 6% interest over the enhanced amount is concerned. In view of the settled legal position, we set aside the order of the High Court in respect of grant of 15% solatium.

6. The appeal is partly allowed.