

LETTERS PATENT APPEAL

Before D. Falshaw, Chief Justice and Mehar Singh, J.

THE STATE OF PUNJAB,—Appellant

versus

KARANBIR SINGH,—Respondent.

Letters Patent Appeal No. 2 of 1962.

1965
September, 1st

Land Acquisition Act (1 of 1894)—S. 28 as amended by Punjab Amendment Act of 1954—Rate of interest reduced from 6 per cent to 4 per cent—Whether applicable to enhanced amount of compensation in respect of land acquired in Pepsu—Punjab Laws (Extension No. 1) Act V of 1957—S. 6—Effect of.

Held, that the acquisition proceedings, which took place in the erstwhile Pepsu State and in which reference was made to the Court of the District Judge under section 18 of the Land Acquisition Act, 1894 as applied to Pepsu area, have to be decided in accordance with the provisions of that Act as was in force in Pepsu. According to that section as in force in Pepsu, the rate of interest payable on the amount of compensation was 6 per cent. In the Punjab the amendment made to section 18 of the Land Acquisition Act by the Punjab Amendment Act of 1954 reduced the rate of interest from 6 per cent to 4 per cent. Merely, because after the merger of Pepsu with Punjab, the Punjab amendment to section 28 of the Act made in 1954, has been made applicable to the areas comprised in the erstwhile Pepsu State will not have the effect of reducing the rate of interest on the enhanced compensation from 6 per cent to 4 per cent on the ground that the enhancement was made after the amended section 18, as in Punjab, had been made applicable to the erstwhile Pepsu State by section 6 of the Punjab Laws (Extension No. 1) Act of 1957. The right to interest on any enhanced compensation clearly dates back to the date on which the Collector took possession of the land and the rate of interest then payable, was 6 per cent and not 4 per cent.

Letters Patent Appeal under Clause 10 of the Letters Patent against the order, dated 29th August, 1961 passed by the Hon'ble Mr. Justice Gurdev Singh in R.S.A. No. 25 of 1959.

B. S. CHAWLA, ADVOCATE, for the ADVOCATE-GENERAL, for the Appellant.

D. C. GUPTA, ADVOCATE, for the Respondents.

JUDGMENT

D. Falshaw,
C.J.

D. FALSHAW, C.J.—The facts in this appeal filed under clause 10 of the Letters Patent by the State are that Karanbir Singh respondent owned some land which was included in an area acquired by the Government for the establishment of an Industrial Training Institute at Patiala. The

acquisition proceedings concluded with an award given by the Collector on the 31st of March, 1956.

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At the instance of Karanbir Singh a reference was made to the Court of the District Judge under section 18 of the Act. The then learned District Judge held by his order, dated the 29th of April, 1957, that the reference was incompetent, because the compensation had been accepted without protest, but Karanbir Singh obtained an order in revision from this Court in May, 1958 for the reference to be decided after the respondent had been given an opportunity to produce evidence in rebuttal regarding the grounds on which the reference had been held to be incompetent.

The learned District Judge who decided the reference by his order, dated the 1st of November, 1958, again held that the reference was incompetent, but at the same time gave a finding to the effect that the proper value of the land was Rs. 1,000.00 per *bigha* as against Rs. 700.00 awarded by the Collector.

In the appeal filed by Karanbir Singh in this Court the learned Single Judge held that the reference was competent and on the merits held that the proper value of the land was Rs. 1,250.00 per *bigha*. He, accordingly held that Karanbir Singh was entitled to receive an additional amount of Rs. 1,952.50, together with the statutory 15 per cent for compulsory acquisition, and also interest on this amount at the rate of 6 per cent per annum from the date on which the possession of the land was taken by the Government up to the date of payment.

In this appeal filed by the State only one ground had been taken, namely that under law interest could only be allowed on the enhanced compensation at the rate of 4 per cent and not 6 per cent. This was based on the fact that by an amendment introduced in 1954, the Punjab Government had altered the rate of 6 per cent mentioned in section 28 of the Land Acquisition Act to 4 per cent, and that at the time the reference was decided by the learned District Judge which was after the merger of the Pepsu with the State of Punjab on the 1st of November, 1956, the law applicable was the Land Acquisition Act as amended by the Punjab Government. The Law in force at the time of the acquisition proceedings was the Land Acquisition Act of 1894 as extended to Pepsu by the Pepsu Laws Extension Act, 12 of 1955.

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It was contended on behalf of the State that no right to interest on any enhanced amount of compensation accrued to Karanbir Singh, until the matter was decided in his favour by the learned Judge of this Court, and that therefore, the law to be applied regarding the rate of interest payable on the enhanced compensation was that contained in the Land Acquisition Act as amended in the Punjab. On the other hand, it was contended on behalf of Karanbir Singh that the law to be applied was that which was in force at the time of the acquisition proceedings and at the time when possession of the land was taken by the Government, and that the date of the determination of his right to any sum of enhanced compensation was irrelevant, reliance being placed on the provisions of section 6 of the Punjab Laws (Extension No. 1) Act of 1957, which reads—

“If immediately before the commencement of this Act there is in force in the transferred territories any law corresponding to any of the enactments or rules, regulations, notifications, orders and bye-laws made, and directions or instructions issued thereunder extended to those territories by section 4, that law including the enactments specified in Schedule III shall, on the commencement of this Act, save as otherwise expressly provided in this Act, stand repealed:

Provided that such repeal shall not affect—

(a) * * * * *

(b) any right, privilege, obligation or liability acquired or incurred under any law so repealed, or

(c) * * * * *

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid.

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The effect of this, it is contended, is that the reference under section 18, which, since no objection regarding limitation appears to have been raised, must have been made within the period of limitation mentioned in section 18, and

therefore before the merger of the two States, had to be decided at all stages according to the law then in force, i.e., in accordance with the provisions of section 28 of the Land Acquisition Act without the Punjab amendment. This section reads—

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“If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.”

In my opinion there is force in the contention advanced by the learned counsel for the respondent. The acquisition proceedings took place and the reference was made to the Court of the District Judge under section 18 of the Land Acquisition Act as applied to Pepsu and was to be decided in accordance with those provisions. The mere fact that no enhancement of compensation was made until some years later by a learned Judge of this Court appears to me to be wholly immaterial. Under the terms of section 28, the right to interest on any enhanced compensation clearly dates back to the date on which the Collector took possession of the land, and in my opinion the rate of interest must be in accordance with the law in force at that time. I would accordingly dismiss the appeal with costs.

MEHAR SINGH, J.—I agree.

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K.S.K.

CRIMINAL MISCELLANEOUS

Before H. R. Khanna, J.

MAKHAN SINGH TARSIKKA,—*Petitioner.*

versus

THE PUNJAB STATE AND OTHERS,—*Respondents*

Criminal Writ No. 63 of 1965.

Constitution of India (1950)—Article 371—Non-obstante clause in—Whether confers special immunity or privilege on a member of Regional Committee—Member of the Legislature or of Regional Committee—Whether immune in the matter of preventive detention—Such member—Whether can claim that arrangement be made for his attendance at the meeting of the legislature or Regional Committee.

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