

THE HIGH COURT OF MADHYA PRADESH
M.P. No.1608/2018

Jabalpur

Dated: 28-03-2018

Shri Anil Kumar Tiwari, learned counsel for the petitioner.

Shri Rahul Rawat, learned Government Advocate for the respondent/State.

This petition, under Article 227 of the Constitution of India, has been filed challenging the order Annexure P/2 dated 27.10.2009 by which Reference Case No.427/2007 has been dismissed by the 2nd Additional District Judge, Khandwa (M.P.) for want of prosecution.

Learned counsel for the petitioner has placed reliance on the judgment of the Hon'ble Supreme Court rendered in the case of *Khazan Singh (dead) by LRS Vs. Union of India* reported in (2002) 2 SCC 242 and the various judgments of this Court *M.P.No.1191/2017 (Mangilal (dead) through LRS Vs. the Land Acquisition Officer)* decided on 28.11.2017, *M.P.No.1123/2017 (Gajanand Vs. Land Acquisition Officers & Others)* decided on 24.11.2017, *M.P.No.1104/2017 (Gajanand Vs. State of M.P. & Others)* decided on 28.11.2017, *M.P.No.1049/2017 (Hukumchand (dead) through LRS Suresh Kumar Jain & Others Vs. Land Acquisition & Rehabilitation Officers & Others)* decided on 21.11.2017, *M.P.No.1122/2017 (Shobharan Versus State of M.P. & Others)* decided on 28.11.2017 and contended that dismissal of the reference case by the Reference Court is not permissible.

The argument as advanced by learned counsel for the petitioner is justifiable, therefore, it is accepted but as objected by

learned Government Advocate for the State, one relevant issue requires consideration by the Reference Court at the time of determining the compensation if any enhanced from the award of the Land Acquisition Officer then for the delay of seven years in approaching the Court whether the interest would be payable to the petitioner or not.

At present this Court is not deciding the issue on merits but it is left open to the Reference Court to take into consideration the said point while enhancing the amount at the time of imposing the interest on the said enhanced amount.

With the aforesaid observations and in view of the aforesaid pronouncement of law, the order Annexure P/2 dated 27.10.2009 passed by 2nd Additional District Judge, Khandwa (M.P.) dismissing the Reference Case No.427/2007 in default stands set aside and Reference Case No.427/2009 is hereby restored to its original number. The Reference Court may take into consideration the point of interest as observed hereinabove.

Accordingly, this petition stands *disposed of*.

(Subodh Abhyankar)
Judge

sjk

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