

THE IMPROVEMENT TRUST, PATIALA

A

v.

THE LAND ACQUISITION TRIBUNAL AND ORS.

MARCH 31,1995

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

B

*Land Acquisition Act, 1894 :*

*Section 23(1-A) (As amended by 1984 Act)—Benefits under Section 23(1-A)—Applicability of.*

C

Relying on orders passed by this Court on October 29, 1987 in C.A. No.174 and 602-605/82 it was contended in this appeal that the respondents-owners share entitled to the benefits provided under section 23 (1-A) of the Land Acquisition Act, 1894.

D

Allowing the appeal of Improvement Trust, the Court

HELD: Section 23 (1-A) of the Land Acquisition Act, 1894 provides that in addition to the compensation the owner is entitled to the payment of 12% per annum of the enhanced compensation from the date of the notification under Section 4(1) till date of passing award by the Collector or taking possession, whichever is earlier. This is independent of the escalation of the solatium and interest provided under sub-s.(2) of Section 23, and Section 28 respectively. Therefore, what this Court meant in its quoted order was escalation but not independent of the claims available under section 23(1-A) since by then that question was pending adjudication before this Court. Therefore, the respondents are not entitled to the benefits under section 23(1-A). [114-E-F]

E

F

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4695 of 1995.

G

From the Judgment and Order dated 13.2.95 of the Punjab & Haryana High Court in C.W.P. No. 2231 of 1995.

H.L. Srivastava, S.M.Rai and T.N.Singh for the Appellant.

Gopal Subramaniam, V. Ramswaroop, Vineet Maheshwari and R.K. H

**A Maheshwari Advs. for the Respondents.**

The following Order of the Court was delivered:

Mr. Maheshwari, Advocate, accepts notice for the respondents.

**B Leave granted.**

We have heard learned counsel for the appellant and Mr. Gopal Subramaniam, learned senior counsel for the respondents, placed reliance on the order passed by this Court in CA No.174 and 602- 605/82 dated

**C** October 29,1987, wherein the counsel appearing for the appellant had conceded in those appeals that "the respondents have agreed that the provisions of the amending Act shall apply and escalated rates provided therein would be available." Based thereon, it is contended by Sri Gopal Subramaniam that it is no longer open to the appellant to contend that the respondents are not entitled to the benefits provided under section **D** 23(1-A) of the Land Acquisition Act as amended under Act 68/1984. Section 23(1-A) provides that in addition to the compensation the owner is entitled to the payment of 12% per annum of the enhanced compensation from the date of the notification under Section 4(1) till date of passing award by the Collector or taking possession, whichever is earlier. This is independent of the escalation of the solatium and interest provided under **E** sub-s (2) of Section 23, and Section 28 of the Land Acquisition Act as amended under Act 68 of 1984, respectively. Therefore, what was meant by this Court in the above quoted direction is escalation but not independent of the claims available under section 23(1-A) since by then that question was pending adjudication before this Court.

**F** **G** Under these circumstances, the respondents are not entitled to the benefits under section 23(1-A) of Land Acquisition Act. It should accordingly be deleted from the award. It is needless to mention that the respondents shall pay the balance amount as directed by this Court in the earlier order within a period of one month from today. The appeal is allowed accordingly. No costs.

T.N.A.

Appeal Allowed.