

THE COLLECTOR, LAND ACQUISITION AND ANR.

v.

JASWANT SINGH AND ORS.

(Civil Appeal Nos.5640-5641 of 2008)

SEPTEMBER 15, 2008

[DR. ARIJIT PASAYAT AND DR. MUKUNDKAM  
SHARMA, JJ.]

*Land Acquisition Act, 1894:*

*Interest on solatium – Executing Court granting interest on solatium though such interest not granted by Reference Court – Revision petition dismissed by High Court – Subsequent judgment by Constitution Bench of Supreme Court in Gupreet Singh's case on power of Executing Court to grant interest on solatium – Held: The High Court has to examine the position in light of the decision in Gurpreet Singh's case as the said decision is subsequent to the judgment of the High Court – Matter remitted to High Court.*

**A Revision petition in terms of Article 227 of the Constitution was filed before the High Court questioning the correctness of the order passed by the Executing Court, holding that the Respondents-land owners were entitled to claim interest on the amount of solatium. The petition was dismissed in the light of a judgment of this Court in *Sunder's case* in which case it was held that interest is payable on the amount of solatium as well.**

**It was submitted by Appellant before this Court that the Reference Court had categorically observed while disposing of the land reference case that the landowners shall not be entitled to any interest on the amount of solatium and in view of such categorical finding of the Reference Court, the Executing Court could not have gone beyond the decree.**

A **Remitting the matter to the High Court, the Court**

**HELD:** In a subsequent Constitution Bench judgment of this Court in *Gurpreet Singh's* case, the position relating to the power of the Executing Court was examined. The High Court has to examine the position in the light of the decision in *Gurpreet Singh's* case as the said decision is subsequent to the judgment of the High Court. Since the factual position has not been noted by the High Court, the High Court is directed to consider the matter in the light of what has been stated in the *Gurpreet Singh's* case. [Paras 5, 6] [527-E-F; 528-G]

*Sunder v. Union of India* (2001) 7 SCC 211 and *Gurpreet Singh v. Union of India* (2006) 8 SCC 457 – referred to.

#### Case Law Reference

(2001) 7 SCC 211 referred to Para 2

(2006) 8 SCC 457 referred to Para 5

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 5640-5641 of 2008

From the final Judgment and Order dated 13.1.2005 of the High Court of Punjab and Haryana at Chandigarh in Revision Petition Nos. 260 & 261 of 2005

K.K. Khurana, A.A.G., A.K. Mehta and Ajay Pal for the Appellants.

Anis Ahmed Khan for the Respondents.

The Judgment of the Court was delivered by

**Dr. ARIJIT PASAYAT, J.** 1. Leave granted.

2. Challenge in these appeals is to the order of a learned Single Judge of the Punjab and Haryana High Court. A Revision Petition, in terms of Article 227 of the Constitution of India, 1950 (in short 'the Constitution') was filed before the High Court questioning the correctness of the order passed by the Execut-

ing Court, i.e learned Additional District Judge, Ludhiana holding that the respondents were entitled to claim interest on the amount of solatium. The petition was dismissed in the light of a judgment of this Court in *Sunder Vs. Union of India* (2001(7) SCC 211). It was held in the said case that the interest is payable on the amount of solatium as well. A  
B

3. Learned counsel for the appellant submitted that in the present case, the Reference Court had categorically observed as follows while disposing of several land reference cases under Section 18 of the Land Acquisition Act, 1894 (in short 'the Act'):

"However, they shall not be entitled to any interest on the amount of solatium." C

4. It is submitted by learned counsel for the appellant that in view of the aforesaid categorical finding of the Reference Court, the Executing Court could not have gone beyond the decree. Learned counsel for the respondents, on the other hand, submitted that the matter was squarely covered by the decision in *Sunder's* case (supra) and, therefore, the High Court was justified. D  
E

5. In a subsequent Constitution Bench judgment of this Court in *Gurpreet Singh Vs. Union of India* (2006 (8) SCC 457), the position relating to the power of the Executing Court was examined. In paragraph-54, it was noted as follows. F

"54 One other question also was sought to be raised and answered by this Bench though not referred to it. Considering that the question arises in various cases pending in Courts all over the country, we permitted counsel to address us on that question. That question is whether in the light of the decision in *Sunder* (supra), the awardee/decree holder would be entitled to claim interest on solatium in execution though it is not specifically granted by the decree. It is well settled that an execution court cannot go behind the decree. If, therefore, the claim for G  
H

A interest on solatium had been made and the same has  
been negated either expressly or by necessary  
implication by the judgment or decree of the reference  
court or of the appellate court, the execution court will  
B have necessarily to reject the claim for interest on solatium  
based on *Sunder (supra)* on the ground that the execution  
court cannot go behind the decree. But if the award of the  
reference court or that of the appellate court does not  
C specifically refer to the question of interest on solatium or  
in cases where claim had not been made and rejected  
either expressly or impliedly by the reference court or the  
appellate court, and merely interest on compensation is  
awarded, then it would be open to the execution court to  
apply the ratio of *Sunder (supra)* and say that the  
D compensation awarded includes solatium and in such an  
event interest on the amount could be directed to be  
deposited in execution. Otherwise, not. We also clarify  
that such interest on solatium can be claimed only in  
E pending executions and not in closed executions and the  
execution court will be entitled to permit its recovery from  
the date of the judgment in *Sunder* (September 19, 2001)  
and not for any prior period. We also clarify that this will  
not entail any re-appropriation or fresh appropriation by  
the decree-holder. This we have indicated by way of  
clarification also in exercise of our power under Articles  
F 141 and 142 of the Constitution of India with a view to  
avoid multiplicity of litigation on this question."

6. The High Court was required to examine the position in  
the light of the decision in *Gurpreet Singh's case (supra)* as the  
factual position has not been noted by the High Court. We, there-  
G fore, remit the matter to the High Court to consider the matter in  
the light of what has been stated in paragraph-54 of *Gurpreet's*  
case (*supra*).

7. The appeals are allowed to the aforesaid extent.

H B.B.B.

Appeals allowed.