

Onkar Nath Vs. Onkar Nath

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Court : Punjab and Haryana

Decided On : Jan-17-2014

Appellant : Onkar Nath

Respondent : Onkar Nath

Judgement :

FAO No.331 of 1988 (O&M) -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH FAO No.331 of 1988 (O&M) Date of Decision: 17.01.2014 Onkar Nath Appellant Versus Union of India and others Respondents CORAM:- HON'BLE Mr.JUSTICE RAJIV NARAIN RAINA Present: Mr.M.L.Sarin, Sr.Advocate, with Ms.Alka Sarin, Advocate, for the appellant.

Mr.Rajiv Sharma, Advocate, for the respondent-UOI.

1.

To be referred to the Reporters or not?.

2.

Whether the judgment should be reported in the Digest?.

RAJIV NARAIN RAINA, J.(Oral) Heard learned counsel for the parties.

The dispute lies in a narrow compass which can be best expressed in the form of a chart handed over by Mr.Sarin in Court which is reproduced as under:- Total fruit

Wholesale Increase from trees price index in 1954 to 1970 assessed on 1954-1970 formula of 1954 47 99.6 225.2 125.6 Rs.23031.91 Rs.29043.23 Total fruit Wholesale Increase from trees price index in 1966 to 1970 assessed on 1966-1970 formula of 1966 18 183.2 225.2 42.0 Rs.12,985.00 Rs.4609.67 Increase for Rs.29043.23 47 trees Increase for Rs.4609.67 18 trees Total Rs.33652.90 increase The exposition of facts and figures in the chart are irrefutable and lead to the only conclusion that the appellant would be entitled to Mittal a Manju sum of 2014.01.27 15:49 I attest to the accuracy and integrity of this document Chandigarh FAO No.331 of 1988 (O&M) -2- Rs.33,652/- for the proportionate increase of the market value for two sets of timber one consisting of 47 trees in one parcel of land and 18 trees in another tract, both of which were acquired together under the Land Acquisition Notification dated 28th February, 1970 issued under the Requisitioning and Acquisition of Immovable Property Act, 1952.

Mr.M.L.Sarin, learned senior counsel for the appellant is correct in his submission that the Arbitrator had committed a patent error in not granting the proportionate increase in accordance with law settled by this Court in the Division Bench decision Ranjit Singh versus Union Territory of Chandigarh, AIR1983 Punjab and Haryana 308.

Once this amount is accepted to be due and payable then it follows axiomatically that 30% solatium under S.23 and interest at the rate of 9% per annum for the first year from 28th February, 1970 and 15% thereafter till realization is an enforceable right.

Mr.Sharma, appearing for the Union of India submits that the law applicable to solatium and interest would not be applicable to acquisition under the Requisitioning and Acquisition of Immovable Property Act, 1952.

Mr.Sarin in rebuttal counters this argument supported by an authority of the Supreme Court in Dilawar Singh and others versus Union of India and others (JT201011) SC556 in which the Supreme Court have held that solatium and interest could well be awarded to expropriated land owners whose property was

acquired under the Requisitioning and Acquisition of Immovable Property Act, 1952.

That decision was followed and applied in the subsequent decision in Union of India versus Parmal Singh and otheRs.JT2008(12) SC611 Mittal Manju 2014.01.27 15:49 I attest to the accuracy and integrity of this document Chandigarh FAO No.331 of 1988 (O&M) -3- In view of the above, this appeal is allowed in terms of the conclusions reached in the chart.

The impugned award stands modified accordingly.

(RAJIV NARAIN RAINA) JUDGE1701.2014 manju Mittal Manju 2014.01.27 15:49 I attest to the accuracy and integrity of this document Chandigarh

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