

**Manas Sett and ors. Vs. Union of India (Uoi) and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/138471](http://sooperkanoon.com/138471)

**Court :** Patna

**Decided On :** Mar-17-1998

**Judge :** M.Y. Eqbal, J.

**Appeal No. :** Misc. Appeal Nos. 27 and 131 of 1994 (R)

**Appellant :** Manas Sett and ors. Deputy Commissioner, Ranchi-cum Competent Authority and ors.

**Respondent :** Union of India (Uoi) and ors. Manas Sett and ors.

**Advocate for Pet/Ap. :** Mr. Mehta

**Judgement :**

**M.Y. Eqbal, J.**

1. These two appeals, one by the awardees/claimants and another by the competent authority, have been filed under Section 11 of the Requisitioning and Acquisition of Immovable Properties Act, 1952 against the award dated 01.01.1994 passed by the learned Arbitrator in Arbitration Case No. 1 of 1973/1 of 1993 awarding recurring compensation including interest for the requisition of land and building under the provisions of the aforesaid Act.

2. The predecessor-in-interest of the appellants of Misc. Appeal No. 27 of 1994 (R) held and possessed landed properties, comprised within plot No. 1528 of Khata

No. 170 measuring 7.50 acres with a house and building standing over a portion of the aforesaid land known as 'Hemkunj' lying in Ward No. 7-B within Ranchi Municipality in Buti Road, Ranchi. It appears that the aforesaid property was requisitioned under the provisions of the Defence of India Act, 1962 by Notification dated 13.12.1962 for defence purposes and possession of the property was taken by the defence authority in January, 1965. The Deputy Commissioner, Ranchi, who was the competent authority, fixed a monthly recurring compensation for the building at Rs. 450/- and an annual compensation for land at Rs. 1297.50 p. The owners of the properties objected to the aforesaid amount fixed by the Dy. Commissioner and consequently, the Additional Judicial Commissioner, Ranchi, was appointed as Arbitrator under the provisions of the Requisition and Acquisition of Immovable Properties Act, 1952 (hereinafter to be referred to as the said Act). It appears that the dispute could not be decided by the Arbitrator so appointed because of his transfer and the matter remained pending for a long time. Ultimately, the claimant appellants moved this Court by filing C.W.J. No. 2226 of 1989 (R) and this Court finally by an order dated 12.9.1991 directed the respondents to appoint Arbitrator. Since the order was not complied with within time, the appellants filed a contempt petition being M.J.C. No. 203 of 1992 (R). Ultimately, a notification was issued in the year 1992 appointing a retired Judge of this Court as an arbitrator who, after hearing the parties, passed the final award, which is impugned in these two Misc. appeals.

3. The claimant appellants claimed rent of Rs. 2000/- per month for the building Rs. 80/- and Rs. 25/- per month for the cow-shed and gardener's quarters and Rs. 3750/- per month for the land measuring 7.5 acres. According to the claimants, there are 18 rooms, a lobby equivalent to 3 rooms, 2 big garages, 2 big verandas in the double storied structures. The total built up area is 6,374 sq. ft. The claimants claimed rent from the year 1965 upto 16.1.1987 and thereafter from 17.1.1987, they claimed damages. According to the claimants, the recurring rent and damages was liable to be revised at an increment of Rs. 25% on the expiry of every five years under the provisions of the said Act. The claimants also claimed interest @ 12% since 1965 till the date of payment of the sum payable by the Union of India. The claimants further claimed compensation for the demolition of roof of the cow-shed and the gardeners quarters and also for illegal construction of

latrine in the northern side of the land. The claim of the claimants was opposed by the Union of India on the ground, inter alia, that according to the valuation of the land, the rent and compensation assessed by the Deputy Commissioner was perfectly valid and justified.

4. The learned Arbitrator formulated the following points for consideration:

(i) whether the awardees are entitled to compensation from 14.1.1965 or from 23.1.1965 upto 10th. March, 1987?

(ii) what would be the fair and just amount of compensation to which the awardees are entitled and who are the persons entitled to receive the compensation?

(iii) whether the awardees are entitled to revision of recurring compensation after every 5 years?

(iv) whether the awardees are entitled to compensation for pecuniary loss due to requisition, expenses on account of vacating the requisitioned property and on account of re-occupying the premises upon release of the requisitioned premises?

(v) whether the awardees are entitled to the damages caused to the property during the period of requisition including the expenses incurred for restoring the property to the original condition in which it was at the time of requisition?

(vi) whether any tree or trees were standing in the premises in question and the same have been removed by the opposite party and whether the awardees are entitled for any payment due to removal of the same?

(vii) whether the awardees are entitled to any interest on the recurring compensation, if so that would be the rate of interest to which they are entitled?

(viii) whether the awardees are entitled to cost and any other relief?

5. So far as point No. (i) is concerned, the learned Arbitrator held that the claimants/awardees are entitled to recurring compensation from 15.1.1965 upto 10.3.1987 as the claim for recurring compensation has not been challenged by the Union of India. While deciding point No. (ii), the learned Arbitrator considered both

oral and documentary evidence in detail and came to the conclusion that the claimants/awardees are entitled to monthly rent/recurring compensation at the rate of Rs. 1500/- for the entire building and Rs. 350/- per month per acre from the land. Accordingly, the rent was assessed at Rs. 18,000/- (rupees eighteen thousand) for the building and Rs. 31,500/- (rupees thirty one thousand and five hundred) for the entire land in the year 1965 and held that the same is revisable in accordance with law. The learned Arbitrator decided point No. (iii) against the claimants/awardees and held that as the awardees are entitled to compensation up to 10.3.1987, there is no scope for further revision and enhancement. The Arbitrator, however, refused to award any compensation on the head of requisition expenses and for the damages allegedly caused to the properties during the period of requisition. On the point of interest, the learned Arbitrator held that the awardees are entitled to interest @ 9% per annum on the unpaid amount of recurring compensation from 15.1.1965 till 14.1.1994. By the impugned Award, therefore, the learned Arbitrator awarded total sum of Rs. 28,75,210, 06 p inclusive of 9% interest till 14.1.1994 and further granted future interest @ 12% per annum from 15.1.1994.

6. I have heard Mr. H. Mehta, learned Counsel appearing on behalf of the awardees/appellants and Mrs. Indrani Senchaudhury, learned Counsel appearing on behalf of the appellant in Misc. Appeal No. 27 of 1994 (R), I have also heard Mr. A.K. Trivedi, Standing Counsel for the Central Government.

Mr. Mehta, learned Counsel for the awardees, on the one hand, assailed the impugned award of the Arbitrator as being unjust and unreasonable on the ground, inter alia, that the amount of compensation assessed by the Arbitrator is much below and further the Arbitrator failed to award compensation on different heads, which the awardees are legally entitled to receive from the respondents. On the other hand, Mrs. Senchaudhury and Mr. Trivedi, learned Counsel for the competent authority and the Central Govt. attacked the award on the ground that the amount of compensation assessed by the Arbitrator is just, fair and reasonable. I have found that while deciding these points, learned Arbitrator has considered the evidence of all the witnesses examined on behalf of the claimants. The learned Arbitrator found that the amount of recurring compensation assessed

by the Deputy Commissioner was unreasonable and much below the market rent. It appears that the learned Arbitrator also considered all the documentary evidences adduced by the parties and ultimately came to a finding that the monthly rent i.e., recurring compensation should have been Rs. 1500/- for three building and Rs. 350/- per acres for the land. The learned Arbitrator accordingly assessed Rs. 1800/- for the building and Rs. 31,500/- for the land for the year 1965 and further held tat the same is revisable in accordance with law. Learned Counsel for the parties failed to satisfy me that either the monthly rent assessed by the Arbitrator is excessive or exorbitant, or is much below the reasonable rent. More over, I do not find that the learned Arbitrator either failed to consider any material evidence or did not consider the evidence in its right perspective. I am, therefore, not inclined to interfere with the finding arrived at by the Arbitrator on the point of assessment of recurring compensation. On the question of entitlement of claimants' revised annual recurring compensation, the Arbitrator after considering the relevant provisions of Section 8 of the said Act has held that the amount of compensation shall be revised first in the year 1975, second in the year 1980 and third in the year 1985 @ 15% and 10% each for the subsequent years respectively. The Arbitrator, therefore, held that since the awardees are entitled to compensation only upto 10.3.1.987 i.e., before the expiry of five years from 1985, there is no scope for further revision and enhancement, I do not find any reason to interfere with the said finding as the learned Arbitrator has granted necessary revision permissible under Section 8 of the said Act. I further do not find any reason to differ with the findings arrived at by the Arbitrator on points No. (v) and (vi) which relate to claim of alleged damages caused to the properties during the period of requisition.

7. The only point remains to be considered is point No. (vii) which relates to claim of interest. Mr. Mehta, learned Counsel for the appellants drew my attention to different dates and submitted that it was only due to laches and negligence on the part of the respondent Union of India which took about a decade for appointment of Arbitrator. According to the learned Counsel, although the predecessor-in-interest of the claimants applied for arbitration in the year 1967, the matter lingered for about 16/17 years in arbitration because of one reason or the other, not for the fault of the claimants. The claimants are, therefore, entitled to interest and

solatium, although the Act does not provide for payment of interest and solatium. In this connection, the learned Counsel relied upon the decisions of the Apex Court in the case of Union of India v. Hari Krishan Khosla (1993) 2 Suppl. S.C.C. 149; Prabhu Dayal v. Union of India 1995 (4) Suppl. SCC 221; Harbans Singh and Ors. v. Union of India 1995 (4) Suppl. 223 and Abhay Singh Surana v. Union of India : [1987]3SCR1045 However, on question, Mr. Mehta very fairly submitted that at no point of time, solatium was claimed by the claimants/awardees. The learned Counsel, therefore, forcefully assailed the award on the question of payment of interest for the aforesaid reasons. I also find force in the submission of Mr. Mehta. As noticed above, the notice for requisition was issued in the year 1965 and possession was taken in the same year. In the year 1967, the competent authority, fixed the recurring compensation for the building and land and claimants objected to the fixation of the said amount and applied for an arbitration in the year 1967 itself. In the year 1973, i.e., after about five years, notification was issued by the respondent appointing the Addl. Judicial Commissioner, Ranchi, as Arbitrator. Because of transfer of the Arbitrator, another Arbitrator was appointed in the year 1981, but the matter could not be concluded because of transfer of the Arbitrator in the year 1983. Again for about more than five years, no Arbitrator was appointed by the Union of India and the claimants were compelled to file writ petition being CWJC No. 2226 of 1989 (R) before this Court for appointment of Arbitrator. This Court issued necessary direction to the respondents for appointment of Arbitrator, but nothing was done. The claimants then again moved this Court by filing a contempt petition being MJC No. 203 of 1992 (R). It was only after notice was issued to the respondent then a notification was issued appointing a retired Judge of this Court as Arbitrator. In the facts and circumstances of the case, I am, therefore, of the opinion that the claimants were entitled to receive solatium and interest; although payment of the same is not provided under the Act, as stated above, since solatium has never been claimed by the claimants, I do not find reason to award solatium to the claimant appellants, but the claimants are certainly entitled to get interest. In the case of Hari Krishan Khosla (supra) the Apex Court in para 79 of the judgment held as under:

79. This is a case in which for 16 years no arbitrator was appointed. We think it is just and proper to apply the principle laid down in Harbans Singh Shanni Devi v.

Union of India Civil Appeal No. 470 and 471 of 1985, disposed of by this Court on February 11, 1985. The Court held as under:

Having regard to the peculiar facts and circumstances of the present case and particularly in view of the fact that the appointment of the arbitrator was not made by the Union of India for a period of 16 years, we think this is a fit case in which solatium at the rate of 30% of the amount of compensation and interest at the rate of 9 per cent per annum should be awarded to the appellants. We are making this order having regard to the fact that the law has in the meanwhile been amended with a view to providing solatium at the rate of 30% and interest at the rate of 9 per cent per annum.

The view taken by the Apex Court in the aforesaid case was subsequently followed in Prabhu Dayal's case (supra) and Harbans Singh's case (supra).

8. In the light of the aforesaid decision, the interest portion of the impugned award is liable to be modified to the extent that the appellants/awardees shall be entitled to interest at the rate of 9% per annum on the entire amount of recurring compensation instead of unpaid amount of recurring compensation. The amount of compensation shall be calculated accordingly. The award of future interest granted by the Arbitrator @ 12% per annum is perfectly legal and valid and it needs no interference.

9. For the reasons aforesaid, Misc. Appeal No. 27 of 1994 (R) is allowed in part and the impugned award of the Arbitrator is modified only on the point of interest. Consequently, Misc. Appeal No. 131 of 1994 (R) is dismissed. There will be no order as to costs in the facts and cases of the case.

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