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Balakrishna Narayan Vs. Special Land Acquisition Officer

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Court : Karnataka

Decided On : Oct-28-1988

Reported in : ILR1989KAR1887; 1989(1)KarLJ213

Judge : Venkatachala, J.

Acts : Land Acquisition Act, 1894 - Sections 28 and 34

Appeal No. : C.R.P. Nos. 4038 to 4041 of 1986

Appellant : Balakrishna Narayan

Respondent : Special Land Acquisition Officer

Advocate for Def. : Chandrasekhar, Govt. Adv.

Advocate for Pet/Ap. : Vigneshwara Shastri, Adv.

Disposition : Revision petitions allowed

Judgement :
ORDER

Venkatachala, J.

1. A short question which arises for consideration in these Revision Petitions, is -

'Whether the Judgment-debtor's liability to pay interest under an award in a land acquisition case ceases when once the amount due under such award is deposited in reference Court though the Judgment-debtor had obtained stay of execution of such award by the decree-holder?'

2. The facts are briefly these:

Petitioner in each of these revision petitions had got an award in his/her favour from the Court of Civil Judge, Sirsi, under which the respondent-Special Land Acquisition Officer was liable to pay the compensation amount including interest as provided therefor till the date of payment or deposit of such compensation amount in Court. Respondent deposited the compensation amount payable in each of the awards in the reference Court in two instalments. The amount deposited in the first instalment was drawn by the decree-holders (petitioners here). But, the second instalment deposited could not be drawn by the decree-holders (petitioners here) because of a stay order obtained by the respondent restraining the petitioners (decree-holders) from executing the awards. When once the stay was vacated, each of the petitioners, besides withdrawing the second instalment amount deposited towards the payment of the awards, filed an execution case seeking recovery of interest on the compensation amount for the period during which It had remained unpaid on account of the stay order operating against each of them. The Court below before which the execution cases were filed, made a common order in the cases holding that the liability to pay interest by the Judgment-debtors came to an end when once the compensation amount was deposited in the Court. It is that order which has been questioned in these revision petitions giving rise to the consideration of the question formulated at the outset.

3. No doubt, Sections 28 and 34 of the Land Acquisition Act, 1894 ('the Act') state that the interest payable thereunder respecting a compensation amount would be upto the date of payment of such compensation amount or its deposit in Court. But, it is difficult to think that the deposit contemplated there discharges the liability of the Judgment-debtor to pay interest if the Judgment-debtor obtains a stay order restraining the decree-holder from obtaining the amount of the award deposited. The discharge of liability to pay interest on account of deposits being made under

either Section 34 or Section 28 of the Act, would arise only when the deposit so made becomes available for the decree-holder and not when it is made unavailable to the decree-holder by the Judgment-debtor obtaining a stay order of the execution of the award from a higher Court.

In the said view of the matter, it has to be held that the Judgment-debtor's liability to pay interest under award in a land acquisition case does not cease merely when the amount due in such award is deposited in a reference Court, but only when such deposit becomes available to the decree-holder for being withdrawn from the Court towards the satisfaction of the amount due under the award.

4. In the result, these revision petitions are allowed, the common order questioned herein is set aside and the Court below is directed to take back on its file the execution cases of the petitioners and dispose them of in the light of this decision. No costs.

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