

**Net Ram and Another Vs. Union of India and Others**

**Net Ram and Another Vs. Union of India and Others**

**SooperKanoon Citation :** [sooperkanoon.com/686219](http://sooperkanoon.com/686219)

**Court :** Delhi

**Decided On :** Jul-14-2000

**Reported in :** AIR2000Delhi360; 86(2000)DLT606; 2000(54)DRJ814

**Judge :** Arijit Pasayat, C.J.; S.K. Mahajan and; Mukul Mudgal, JJ.

**Acts :** [Land Acquisition Act, 1894](#) - Sections 4, 28 and 34

**Appeal No. :** CWP 3488 of 1997 (Along with batch matters CWP No. 3779/96  
4623/96, 4624/96,1/97, 174, 213, 575, 903

**Appellant :** Net Ram and Another

**Respondent :** Union of India and Others

**Advocate for Def. :** Ms. Gita Luthra, ;Pinki Anand Adv.

**Advocate for Pet/Ap. :** Mr. B.P. Gupta Adv;Ms. Anusuya Salwan Adv

**Judgement :**

ORDER

Arijit Pasayat, CJ.

1. As the dispute in these twenty two writ petitions is common, this judgment will govern each one of them. While hearing the batch of writ petitions, learned Single Judge felt that on account of views expressed by two Division Benches and a Single Judge, to which he did not subscribe to avoid uncertainty adjudication by

the Full Bench is needed.

2. The question is whether direction for grant of interest can be given in respect of the amount of compensation from the date of award till the actual payment @ 15% or 18%, as the case may be. A brief reference to the factual aspects would suffice. On 23.6.1989, notification under Section 4 of the [Land Acquisition Act, 1894](#) (in short, the Act) was issued in respect of large tract of land in the revenue estate of village Kilokari, Nangli Razapur, Khizrabad and Behlopur Khadar for the planned development of Delhi i.e. channalization of Yamuna river. This was followed by declarations under Sections 6 and 17(1) of the Act issued on 22.6.1990. Ultimately, awards were made by the Land Acquisition Collector (ME) on 19.6.1992. Possession of the land was not taken over by the Collector, Land Acquisition in one go but the same was taken over in parcels from time to time from December 1990 up to September, 1995. Compensation was paid to the petitioner in each case sometime in 1994-95. Interest has been claimed by the petitioner in each case at the rate of 15%/18% per annum from the date of the award till the date of actual payment. Reliance has been placed by the petitioners in two orders passed by Division Benches of this Court in *Sher Singh v. Union of India* (CWP 3095/92) dated 15.10.1993 and *Rampat v. Union of India*, (CW 3994/95) dated 26.3.1995 and the order of the Single Judge in CWP 1483/96 dated 25.4.1997.

3. Learned Single Judge noticed that there was no discussion regarding the basis on which interest has been allowed to land owners in the aforesaid three cases. Learned Single Judge was of the view that the Act is complete code covering the entire field of operation of acquisition of land by the State including its liability to pay interest to the land owners in certain contingencies. therefore, he referred the matter to the larger bench, as noted above for opinion.

4. The Act is complete code and lays down detailed procedure for acquisition of land, payment of compensation including solarium and additional market value. It is to be noted that under Section 34 interest @ 9% from the date of taking over the possession till payment for the first year @ 15% for subsequent years is payable. Section 28 is the only other provision which deals with the award of interest. The

said provision empowers the Court to award interest on the excess awarded amount over and above the amount awarded by the Collector.

Sections 28 and 34 read as follows:

28. Collector may be directed to pay interest on excess compensation- if the sum which in the opinion of the court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of [nine per centum] per annum from the date on which he took possession of the land to the date of payment of such excess into court.'

34. Payment of interest.- When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per centum per annum from the time of so taking possession until it shall have been so paid or deposited. [Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.'

5. There is no dispute to the position that apart from Sections 28 and 34 which deal with payment of interest to persons entitled to receive compensation, there is no other provision envisaging payment of interest. Collector, Land Acquisition is liable to pay interest on statutory rates to such persons only when possession has been taken over before the payment of the entire compensation to them under Section 34. In Union of India Vs . Budh Singh, : (1995)6SCC233 , the Apex Court had the occasion to deal with Sections 28 and 34 and it was observed that these were the only provisions which deal with the payment of interest to land owners. While considering the scope and ambit of these Sections, the Apex Court observed :

'Thus, it could be seen that the statute covers the entire field of operation of the liability of the State to make payment of interest and entitlement thereof by the owner when land has been taken over and possession in consequence thereof, the land owner was deprived of the enjoyment thereof. Thus, it could be seen that the court has no power to impose any condition to pay interest in excess of the rate and manner prescribed by the statute as well as for a period anterior to the publication of Section 4(1) notification under this Act.'

6. Similar view was expressed in *State of Himachal Pradesh Vs . Dharam Das* : AIR 1996 SC127 . It was held that when the statute provides for payment of interest to the land owners, a court has no power to award interest in a manner other than the one prescribed by the statute. It was specifically observed that there is no other provision empowering the Court to award interest on equitable grounds as equitable consideration has no role to play in determination of the compensation and the manner of awarding interest as enjoined under the Act. The same has to be administered in the manner laid in the Act and in no other way. As a concomitance the equity jurisdiction of the Court is taken out and the Act enjoins the Court to grant interest as per the statutory rates specified in the Act. A plea was taken in a case before the Apex Court in a matter relating to Jammu & Kashmir Requisitioning and Acquisition of Immoveable Property Act, 1968 which omitted provision for payment of solarium and interest, that in spite of the absence of the provision for solarium and interest in the said Act the State was bound to pay solarium and interest to the land owners on equitable grounds. The Apex Court negated the contention. It was observed that there was no substance in the plea that by legislative omission to pay solarium the State enriches itself unjustly at the expense of the private party (See *Union of India v. Dhanwanti Devi and Ors*, (1996) 5 SCC 44) In *Ashok Nagar Plot Holders Association Vs . State of U. P.*, : [1997]3SCR1096 , the Apex Court again observed that liability to pay interest to the claimant arises only in accordance with Section 34 of the Act. As the Act is a self-contained code, common law principles of justice, equity and good conscience cannot be extended in awarding interest, contrary to or beyond provisions of the statute.

7. In view of what has been indicated above, conclusion is irresistible that while exercising jurisdiction under Article 226 of the Constitution of India, there is no scope for direction to pay interest in a manner not contemplated by either Section 28 or 34. That being the position, decisions rendered by this Court in Sher Singh and Ram Pat cases (supra) and in CWP 1483/96 do not indicate the correct position in law.

8. Normally after answering the reference we would have required the Single Judge to take up the matter on receipt of answer to the reference. But, at the request of learned counsel for the parties we have taken up the case for final disposal. We do not entertain the petitions. However, one grievance of the petitioners need to be noted. It is stated that even those amount payable either under Sections 28 or 34 have not been paid if that be so, let steps be taken for making payment within two months from today

9. Cases disposed of accordingly.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**