

2022 LiveLaw (SC) 15

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
A.M. KHANWILKAR; C.T. RAVIKUMAR, JJ.**

CIVIL APPEAL NO. OF 2022 (Arising from the SLP(C) No._____ of 2022) [Diary No. 17566 of 2020] JANUARY 03, 2022

**GAYABAI DIGAMBAR PURI (DIED) THR. LR
VERSUS
THE EXECUTIVE ENGINEER & ORS.**

Land Acquisition Act, 1894 - If on account of acquisition of land a person is deprived of possession of his property, he should be paid compensation immediately and if the same is not paid to him forthwith, he would be entitled to interest on the compensation amount from the date of taking possession of the land till the date of payment.

(Arising out of impugned final judgment and order dated 28-02-2019 in FA No. 692/2019 passed by the High Court Of Judicature At Bombay At Aurangabad)

For Petitioner(s) Mr. Mrityunjai Singh, Adv. Mr. Shankar Chillage, Adv. Mr. Sudhansu Palo, AOR

For Respondent(s) Mr. Uday B. Dube, AOR Mr. Sachin Patil, AOR Mr. Rahul Chitnis, Adv. Mr. Aaditya a. Pande, Adv. Mr. Geo Joseph, Adv. Ms. Shwetal Shepal, Adv.

ORDER

Delay condoned.

Leave granted.

This appeal takes exception to the judgment and order dated 28.02.2019 passed by the High Court of Judicature at Bombay at Aurangabad in First Appeal No. 692 of 2019.

The limited issue involved in this appeal is about the liability to pay interest whether commences from the date of taking possession or only

from the date of award. The Court while issuing notice on 13.01.2021 noted thus:

“Counsel for the petitioner(s) submits that the High Court has glossed over the crucial fact that in the present case, urgency clause was invoked. In that event, in light of the exposition of this Court in **R.L. Jain (D) by LRs. vs. D.D.A. & Ors.**, reported in (2004) 4 SCC 79, the interest ought to be payable from the date of taking possession.

Issue notice on the application for condonation of delay as also on the special leave petition, returnable in four weeks.

Dasti, in addition, is permitted.

Liberty is granted to serve standing counsel for the State of Maharashtra.”

It is discerned from the judgment of the Reference Court dated 22.11.2021 that the interest was ordered to be paid from 04.04.1997 when possession was taken until 03.04.1998 for the first year at the rate of 9 per cent per annum and thereafter at the rate of 15 per cent per annum from 04.04.1998 till the date of payment, i.e. 08.09.2004. The relevant part of the operative order of the Reference Court reads thus:

"...iv) The respondent No.1 to 3 shall also pay interest to the petitioner on the difference of market value @ Rs.9% per annum from 04.04.1997, (possession taken) to 03.04.1998 for the first year and thereafter @ Rs. 15% per annum from 04.04.1998 till the date of payment i.e., 08.09.2004 (as Form'CC') under Sec. 34 of the Land Acquisition Act."

The High Court in the impugned judgment and order has not specifically dealt with this aspect whilst overturning the said direction issued by the Reference Court.

It is well-settled that the normal rule is that if on account of acquisition of land a person is deprived of possession of his property, he should be paid compensation immediately and if the same is not paid to him forthwith, he would be entitled to interest on the compensation amount from the date of taking possession of the land till the date of

payment thereof as expounded in **R.L. Jain (D) by Lrs. Vs. D.D.A. & Ors.** reported in (2004) 4 SCC 79 (in particular paragraph 17.1).

Accordingly, we partly allow this appeal and modify the impugned order passed by the High Court and instead, restore the direction issued by the Reference Court, reproduced above.

In other words, the appellant would be entitled for interest on or from date when the possession of the land was taken i.e. 04.04.1997 at the rate specified by the Reference Court.

Nothing more needs to be done in this appeal.

The appeal is disposed of in the above terms.

Pending applications, if any, stand disposed of.

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