

Government and not the motor vehicles belonging to the Railway Department of Central Government, as the word 'or' figuring between the vehicles belonging to the Central Government or the State Government clearly shows that the operation for commercial purposes relates to the vehicles belonging to the State Government only. If the Legislature intended to restrict the imposition of tax to the motor vehicles of the Railway Department of the Central Government, then it would have used 'and' instead of 'or'. Moreover, it appears that the Railway being a commercial department of the Central Government, there was no necessity for qualifying the motor vehicles belonging to this department to be taxable on the ground that these were being used for commercial purposes.

(13) For the foregoing reasons, the impugned orders, Annexures P-2 and P-3 of the District Transport Officer, and Collector Amritsar levying tax on the motor vehicles of the Railway Department under Rule 8(i) of the Rules framed under Section 13 of the Act, are hereby quashed by accepting the writ petition. In view of the peculiar legal position, there is no order as to costs.

P.C.G.

Before : A. L. Bahri, J.

V. K. THAPAR AND OTHERS,—*Petitioners.*

versus

STATE OF PUNJAB AND ANOTHER,—*Respondents.*

Civil Writ Petition No. 1209 of 1986.

14th September, 1989

Land Acquisition Act (I of 1894)—Ss. 4, 23(2), 34—Punjab Town Improvement Act, 1922—S. 36—Solatium & Interest not awarded by Tribunal—Petitioners representing about payment of compensation alongwith solatium and interest—Payment of compensation made after 11 years without solatium and interest—Grant of solatium and interest is not discretionary—Delay in approaching Court is of no consequence.

Held, that grant of solatium and interest is not discretionary with the Tribunal constituted under the Act. The provisions of the Land Acquisition Act are applicable to the proceedings for acquisition under the Act. Even if no claim had been made regarding solatium and interest in the application moved by the owners, it was the duty of the Tribunal to grant the same. At the time, the Tribunal decided the case, Land Acquisition Act as in force was applicable.

(Para 3)

V. K. Thapar and others v. State of Punjab and another
(A. L. Bahri, J.)

Held, that when there was legal and statutory obligation of the Tribunal to pay solatium and interest on the amount of compensation for the land acquired and the petitioners have been approaching the Improvement Trust for a period of about ten years to get the amount of compensation so determined, as well as solatium and interest, the delay in the circumstances of the case is of no consequence.

(Para 4)

Writ Petition Under Articles 226/227 of the Constitution of India praying that this Hon'ble Court may be pleased to summon the records of the case and after a perusal of the same, may be pleased to issue:—

- (i) a writ in the nature of Mandamus directing the respondents to pay the amount of interest on the delayed payment;
- (ii) a writ in the nature of Mandamus directing the respondents to pay the amount of solatium and the value of trees, structures and the well;
- (iii) any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case may kindly be issued;
- (iv) filing of the certified copies of Annexures P-1 to P-5 may be dispensed with;
- (v) service of advance notices of motion on the respondents may also be dispensed with as the matter is of urgent nature; and
- (vi) costs of this petition may also be awarded.

Praveen Chander Goyal, Advocate, for the Petitioner.

Mr. H. S. Mattewal, Sr. Advocate with Mr. P. S. Thiara, Advocate, for Respondent No. 2.

ORDER

A. L. Bahri, J. (oral)

(1) Eight Kanals $3\frac{1}{2}$ Marlas of land belonging to Dwarka Dass of Jalandhar was acquired by Jalandhar Improvement Trust, respondent No. 2. Notification under Section 36 of the Town Improvement Act (hereinafter called 'the Act') equivalent to the one issued under Section 4 of the Land Acquisition Act, was published on April 14, 1966 intending to acquire 81.6 Acres of land at Jalandhar by the Improvement Trust. The Collector awarded compensation for the acquired land at the rate of Rs. 40 per marla. Dwarka Dass feeling not satisfied with the amount of compensation awarded, sought reference before the Tribunal constituted under the Act. The Tribunal,—vide its award dated December 24, 1974 enhanced the compensation fixing market value of the acquired land at the rate of Rs. 140 per marla. Annexure P-1 is the extract of the

award. Dwarka Dass, original owner of the acquired land died on July 22, 1973. V. K. Thapar and others, present petitioners are his legal heirs. They continued approaching the Improvement Trust for payment of the amount awarded. They also asked for payment of solatium and interest on the amount awarded. Several representations were made by them during the period August 23, 1975 to September 12, 1985. The payment of the amount awarded was made to them on September 12, 1985. However, no solatium or interest was allowed. This led to the filing of the present petition.

(2) No written statement was filed on behalf of the respondents to contest the petition.

(3) Grant of solatium and interest is not discretionary with the Tribunal constituted under the Act. The provisions of the Land Acquisition Act are applicable to the proceedings for acquisition under the Act. Even if no claim had been made regarding solatium and interest in the application moved by the owners, it was the duty of the Tribunal to grant the same. At the time, the Tribunal decided the case, Land Acquisition Act as in force was applicable. Under S. 23(2) of the Land Acquisition Act 15 per cent solatium on such market value of the land acquired was payable to the land owners and under S. 34 of the said Act, interest at the rate of 6 per cent per annum was also payable on the enhanced amount of compensation.

(4) The contention of the learned counsel for the respondent that aforesaid benefits should not be allowed to the petitioners because they approached this Court after lapse of about more than ten years cannot be accepted when there was legal and statutory obligation of the Tribunal to pay solatium and interest on the amount of compensation for the land acquired and the petitioners have been approaching the Improvement Trust for a period of about ten years to get the amount of compensation so determined as well as solatium and interest, the delay in the circumstances of the case is of no consequence.

(5) For the reasons recorded above, this writ petition is allowed. The Award of the Tribunal is quashed with the direction to the respondents to pay compensation to the petitioners of the land acquired at the rate of Rs. 140 per marla and 15 per cent solatium thereon, as well as interest at the rate of 6 per cent per annum from the date of taking possession of land till payment. There will be no order as to costs.

P.C.G.