



2026:AHC:51156

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL No. - 681 of 2002

Sri Kishan And Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Hemant Kumar, Shiv Shankar Singh
Counsel for Respondent(s)	:	A. K. Roy

A.F.R.

Court No. - 38

HON'BLE SANDEEP JAIN, J.

**InRe: Civil Misc. Delay Condonation Application No.311333 of 2015
& Civil Misc. Substitution Application No.311335 of 2015**

1. Heard learned counsel for the appellants and learned Counsel for the respondent.
2. This delay condonation application has been filed for condoning the delay in moving the substitution application for bringing on record the legal heirs of deceased appellant no.1 Sri Kishan, appellant no.2 Likhiram, appellant no.3 Mam Chand, appellant no.4 Smt. Shanti and appellant no.5 Rama Nand.
3. Learned counsel for the appellants submitted that the above appellants died during the pendency of the appeal and since the original advocate, who was engaged for filing the appeal has also died, as such, the substitution application for bringing on record the legal heirs of the above appellants could not be filed within time.
4. An affidavit has been filed in support of the delay condonation application and substitution application, which is uncontroverted.
5. The cause shown for filing the substitution application with delay is sufficient.
6. The delay in filing the substitution application is condoned.
7. Accordingly, the delay condonation and substitution applications are

allowed.

8. Learned counsel for the appellants is directed to amend the memo of appeal, accordingly.

InRe: Civil Misc. Delay Condonation Application No.39478 of 2017 & Civil Misc. Substitution Application No.39481 of 2017

1. Heard learned counsel for the appellants and learned Counsel for the respondent.

2. This delay condonation application has been filed for condoning the delay in moving the substitution application for bringing on record the legal heirs of deceased appellant no.1/4 Khem Chand, who has died on 07.09.2016 leaving behind his wife Smt. Bhagwati and sons Pramod Sharma, Harish Sharma, Gopal Sharma and Manoj Sharma, as legal heirs.

3. An affidavit has been filed in support of the delay condonation application and substitution application, which is uncontroverted.

4. The cause shown for filing the substitution application with delay is sufficient.

5. The delay in filing the substitution application is condoned.

6. Accordingly, the delay condonation and substitution applications are allowed.

7. Learned counsel for the appellants is directed to amend the memo of appeal, accordingly.

Order on Appeal

1. The instant first appeal has been filed by the appellants for enhancement of compensation, under Section 54 of the Land Acquisition Act, 1894 against the impugned judgment and award dated 04.02.1982 passed by the District Judge, Ghaziabad in LAR No.298 of 1979 (Shri Kishan and others Vs. State of U.P.) whereby compensation @ Rs.6 per square yard besides other statutory benefits admissible under the Land Acquisition Act, of 1894 has been awarded to the land owners for their acquired land situated in village Morna, Pargana and Tehsil Dadri, District Ghaziabad (now District Gautam Buddh Nagar).

2. Learned counsel for the appellant land owners submitted that matter relating to the acquisition of land situated in village Morna, Pargana and Tehsil Dadri, District Ghaziabad (now District Gautam Buddh Nagar), which was acquired through notification under Section 4 of the Act dated 01.06.1976 has attained finality since, compensation @ Rs.28.12 paise per square yard has been awarded by the Apex Court in the case of ***Ajai Pal Singh & Ors. Vs. State of Uttar Pradesh & Anr. (2022) 15 SCC 442***. With these submissions, it was prayed that the appellants be also awarded the same amount of compensation that has been awarded by the Apex Court in the above case.

3. Per contra, Sri Shivam Yadav, learned counsel for the respondent - NOIDA very fairly accepted that the Apex Court in the case of ***Ajai Pal Singh*** (supra) decided on 23.09.2021 has awarded compensation @ Rs.28.12 paise per square yard regarding the acquisition of land by NOIDA pertaining to the year 1976-1977. Learned counsel submitted that the appellants may not be awarded interest on the enhanced amount of compensation awarded by this Court for the period during which the appeal remained defective.

4. I have heard learned counsel for the parties and perused the impugned judgment and documents submitted with the appeal.

5. It is apparent that in the instant case the matter relates to the acquisition of land of village Morna, Pargana and Tehsil Dadri, District Ghaziabad (now District Gautam Buddh Nagar) by the NOIDA, which was acquired through notification under Section 4 of the Act dated 01.06.1976, the declaration under Section 6 was published on 16.09.1976 and the award of the Collector was made on 02.05.1977, whereby compensation @ Rs.10,225/- per bigha for Chai land and Rs.7,570/- per bigha for Khaki land was awarded to the landowners, which has been enhanced by the Reference Court to Rs.6/- per square yard. The Reference Court has also awarded solatium@ 15% and interest @ 6% per annum on the enhanced compensation.

6. It is apparent that the Apex Court in the case of ***Ajai Pal Singh*** (supra) has awarded compensation @ Rs.28.12 paise per square yard regarding the acquisition of land by NOIDA pertaining to the year 1976-1977.

7. In view of this, the appellants are also entitled to get compensation at the same rate at which it has been awarded by the Apex Court in the above mentioned case.

8. **Accordingly, the instant appeal is allowed.** The appellants are entitled to get compensation @ Rs.28.12 paise per square yard for the acquired land situated in village Morna, Pargana and Tehsil Dadri, District Ghaziabad (now District Gautam Buddh Nagar).

9. The question arises whether the appellants are entitled to enhanced solatium @30% and enhanced interest @15% per annum under Amending Act of 1984, as awarded in Section 28 of the Act of 1894?

10. The Apex Court in similar facts and circumstances, where the award of the Collector and Reference Court was passed before 30.04.1982, in the case of **Krishi Utpadan Mandi Samiti vs. Kanhaiya Lal and others (2000) 7 SCC 756**, held as under:-

“14. Section 25 deals with the amount of compensation to be awarded by the court. It mandates the court that such compensation shall not be less than the amount awarded by the Collector under Section 11. Awarding of compensation, curtailing, restricting or adding right to the compensation can never be said to be procedural. The language of this section clearly reveals, it is substantive in nature, hence it cannot be held to be retrospective as to make the amending Act applicable. In fact, this second question, regarding granting of interest, with reference to the applicability of the amending Act, this Court has considered it in Mir Fazeelath Hussain v. Special Dy. Collector, Land Acquisition [(1995) 3 SCC 208] . This Court held, in case of awards made by Collector and Reference Court prior to 30-4-1982 but amount of compensation enhanced by the Supreme Court in appeal long after the period of 30-4-1982 to 24-9-1984, the claimant is entitled to interest on the enhanced amount of compensation at the old rate of 6 per cent only. It further held, interest under Section 28 and solatium under Section 23(2) are not parts of the award hence what was stated in Raghubir Singh case [(1989) 2 SCC 754] solatium would equally apply to the interest also.

15. Accordingly, we hold on the facts of the present case that interest admissible to the respondent claimant would only be 6% as per unamended provision. Thus the High Court granting interest @ 9% and 15% under the proviso of the amended section

cannot be sustained. Accordingly, we set aside that part of the High Court order which enhanced the compensation to the respondent claimant over and above what was claimed and also set aside award of compensation with reference to the interest at 9% and 15% respectively. Interest admissible to the claimant would be 6%....”

11. Again, the Apex Court in the case of ***Ghaziabad Development Authority vs. Anoop Singh and Another (2003) 2 SCC 484***, held as under:-

“10. ...Though, in Raghubir Singh case [(1989) 2 SCC 754] this Court was concerned with the percentage of the solatium payable under Section 23, the same principle would equally apply to the rate of interest payable under Section 28. Both Section 23(2) as well as Section 28 are referred to in the same sub-section which was construed in Raghubir Singh case [(1989) 2 SCC 754] . What applies to solatium is equally applicable to interest. This position has not been disputed before us and cannot be disputed in view of the legal position declared by a three-Judge Bench of this Court in K.S. Paripoornan (II) v. State of Kerala [(1995) 1 SCC 367] .”

12. Similarly, the Apex Court in the case of ***Sarup Singh and Another vs. Union of India and Another (2011) 11 SCC 198***, held as under:-

“19. The applicability of the Amendment Act to a proceeding of the aforesaid nature was made clear by Act 68 of 1984 by enacting the provision of Section 30(2). In all the appeals before us, the award of the Collector and that of the Reference Court in the appellants' case was passed prior to 30-4-1982. Therefore, the said amendment brought in by Act 68 of 1984 to the provisions concerned could not have been made applicable to the proceedings of the present cases. Hence, the judgment and order passed by the High Court giving the benefit provided under Amendment Act 68 of 1984 viz. Sections 23(1-A) and 23(2) and the amended provision of Section 34 of the Act, cannot be made applicable in the cases of the appellants herein.”

13. It is apparent that in this case the award of the Collector and the Reference Court has been made prior to 30.04.1982, as such, in view of the above law laid down by the Apex Court, the appellants are not entitled to get enhanced solatium @ 30% in accordance with the Amending Act 68 of 1984. The appellants are only entitled to get solatium @ 15% for their acquired land. Similarly, the appellants will only be entitled to get interest @ 6% per annum on the enhanced amount of compensation

awarded to them, by this Court.

14. The instant appeal was filed on 02.12.1982 but the deficiency of the court fees was made good on 11.01.1985, as such, the appellants are not entitled to get interest on the enhanced amount of compensation awarded by this Court for the above mentioned period between 02.12.1982 to 11.01.1985.

15. However, in the facts and circumstances of the case, there shall be no order as to costs.

16. Office is directed to prepare the decree accordingly.

(Sandeep Jain,J.)

March 12, 2026

Jitendra