ABSTRACT

Land Acquisition - Enhanced Compensation - payment of interest - Interest on the aggregate amount including solatium and 12% additional market value awarded - Ruling of Supreme Court of India - Clarification to G.O.Ms.No.70, Revenue Department, dated 30.01.2003 - Orders - Issued.

Revenue & Disaster Management [LA-I(1)] Department

G.O.(Ms) No.401 **Dated: 12.10.2018**

Thiruvalluvar Aandu 2049
Vilambi Varudam Purattasi 26

Read:-

1. G.O. Ms. No.683, Revenue Department, dated 21.7.97
2. G.O. Ms. No.70, Revenue Department dated 30.9.2003
3. Government letter No.17551/LA-I(1)/2003-10, Revenue Department, dated 30.7.2004

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ORDER:-

In the G.O. first read above, orders were issued to the effect that the claimants in the land acquisition cases are not entitled for payment of interest on the 30% solatium, and 12% additional amount awarded under section 23(1A) and 23(2) of the Land Acquisition Act, 1894 (Central Act 1 of 1894).

2. In the G.O. second read above, following subsequent ruling of Supreme Court of India in Sundar Vs. Union of India (AIR 2001 SC 3516) dated 19.9.2001, the Government ordered that in supersession of the orders issued in the G.O. first read above, in the land acquisition cases, a person entitled to the compensation awarded under the Land Acquisition Act, 1894 is also entitled to get interest on the aggregate amount including solatium and additional market value awarded and that this will apply all pending cases on the date of judgment of the Supreme Court of India and not earlier.

3. In the Government letter third read above, it has been clarified that "In all land acquisition cases, a person entitled to the compensation awarded under the Land Acquisition Act, 1894 (Central Act I of 1894), on or after 19.9.2001 is also entitled to get interest on the aggregate amount including additional market value and Solatium awarded and this will apply to all pending cases on the date of judgment of the Supreme Court of India, namely 19.9.2001 and not earlier. The term "pending cases" would include the cases where award is passed prior to 19.9.2001 but appeal has been filed in the Competent Court for enhanced compensation and pending on the date of judgment". Accordingly, interest is paid from the date of Award or taking

possession of land as per section 28 of the Land Acquisition Act, 1894 i.e. if the award was passed in the year 1998 (prior to 19.09.2001), the interest on aggregate amount is paid from the year 1998 itself instead of the date of judgment 19.09.2001.

4. It is now learnt that the Supreme Court in its judgment dated 30.9.2010 in Civil Appeal No.1760-1761 of 2004 has ordered as follows.

"The learned counsel for Appellants in Civil Appeal Nos.1760-1761/04 are also claiming interest on solatium and additional compensation as the impugned order of the High Court was pronounced prior to judgment in Sunder V. Union of India reported at (2001) 7 SCC 211. Since the present appeal was pending before this court, therefore, the ratio of Sunder V. Union of India would entitle the appellants to receive interest on solatium under section 23(2) and additional compensation under section 23(1A) in terms of the said decision. It was decided in Gurpeet Singh V. Union of India reported at (2006) 8 SCC 457 that such interest can be claimed only from the date of the judgment in Sunder (supra) i.e. 19.9.2001. Therefore, the appellants in the Civil Appeal Nos.1760-1761/04 shall be entitled to such interest for the period after 19.9.2001, not the period prior to the same".

Further the High Court of Madras in its common order dated 28.11.2014 in C.R.P. Nos.617 to 623 of 2007 has ordered as follows:-

"The claim of the respondents that the amount could be paid even prior to the date of Sunder's case (19.9.2001) owing to pendency of Execution Petitions would certainly give a cause of action to claim interest from the date of decree. For the sake of argument, if the aforesaid submissions are taken into account, then the consequences on the interest on solatium will be a far reaching one, having serious effect on the State exchequer. Therefore, the respondents' claim of pendency of Execution Proceedings could not be a factor to be reckoned in the instant case. Thus in our considered opinion, taking note of the facts and circumstance of the case and by applying the true interpretation made by the Constitution Bench of the Hon'ble Supreme Court, finding that the claim of the respondent is not well founded, we are of the view that interest on solatium has to be applied only from the date of Sunder's case, viz. 19.9.2001 and not otherwise".

5. The then Advocate General of Tamil Nadu Thiru. A.L. Somayaji, in his legal opinion dated 22.1.2016 has opined that, "By an order dated 28.11.2014 in CRP No.617 to 623 of 2007, the Division Bench of the Madras High Court has interpreted the ratio of the Judgment of the Hon'ble Supreme Court reported in 2001 (7) SCC held in 2011 (Sunder Vs. Union of India) to mean that interest is payable on solatium only for the period starting from the date of the said judgment of the Supreme Court i.e. 19.9.2001. The pendency of the execution proceedings cannot give a cause of action to claim interest from the date of the decree. He is of the view that this view of the Hon'ble High Court is correct and should be followed."

6. The Government, after careful examination hereby issue the following clarifications to the orders issued in the GO and letter second and third read above:-

"In all land acquisition cases, a person entitled to the compensation awarded under the Land Acquisition Act. 1894 (Central Act I of 1894), on or after 19.9.2001 is also entitled to get interest on the aggregate amount including additional market value and Solatium awarded, only with effect from 19.09.2001 as per the orders of Supreme Court of India in its judgement dated 30.09.2010 in Civil Appeal No.1760-1761 of 2004. Regarding interest for the period prior to 19.09.2001, the procedures then in force on 18.09.2001, i.e., the claimants in the land acquisition cases are not entitled for payment of interest on the 30% solatium, and 12% additional amount awarded under section 23(1A) and 23(2) of the Land Acquisition Act, 1894 (Central Act 1 of 1894) shall be followed".

7. The Additional Chief Secretary / Commissioner of Land Administration/ District Collectors / District Revenue Officers and Land Acquisition Officers are requested to follow the clarifications as ordered in para 6 above.

(By order of the Governor)

Dr. Atulya Misra,
Principal Secretary to Government.

To
The Additional Chief Secretary/
Commissioner of Land Administration,
Chepauk, Chennai-5.
All the District Collectors.
All District Revenue Officers.
All Heads of Departments.
The Principal Accountant General, Chennai-35/18.
The Principal Accountant General (Audit-I & II),
Chennai-35/18.
All Treasury Officers.
All Pay and Account Officers, Chennai.
All Departments of Secretariat, Chennai-600 009.

Copy to
All Sections in Revenue & DM Department, Secretariat, Chennai - 600 009.
SF/SC.

// Forwarded By Order //

K. V. Radha 12.10.18
Section Officer.

12.10.18