



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.243 OF 2022

PETITIONER :- Vidarbha Irrigation Development Corporation, Through its Executive Engineer, Minor Irrigation Division, Washim, Tahsil & District Washim.
(Ori JD)

..VERSUS..

RESPONDENTS :- 1) ~~Smt. Phulwantabai W/o Nimbaji Sarkate~~
(Ori DH) (Dead) ~~Aged Adult, Occ: Agriculturist, R/o~~
~~Waghi, BK, Tq. Malegaon, Dist. Washim.~~
~~Added Legal representatives of R-1 vide Court~~
~~order dt.5/9/22~~

Amendment carried out
as per order
dt.05.09.2022.

- 1A) Datta Prahlad Khavar, Aged 45 years,
Occ: Agriculturist, R/O Waghi, BK, Tq.
Malegaon, Dist. Washim.
- 2) The State of Maharashtra, Through
Collector, Washim, At present represented
by, Special Land Acquisition Officer
Washim, Tahsil & District Washim.

Mr. M.A. Kadu, Advocate for Petitioner.
Ms H. Dhande, A.G.P. for Respondent/State.
Mr. A.S. Mehadia, Advocate for Respondent No.1.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **08/05/2026**

JUDGMENT :

1. The issue which arises for consideration in the present writ petition is as to whether the interest payable under Section

23(1-A) of the Land Acquisition Act, 1894 (hereinafter referred to as “LA Act”) will be payable on the amount of solatium payable under Section 23(2) of the LA Act.

2. The contention of the respondent/land owner is that the interest payable under Section 23(1-A) should also be paid on the amount of solatium. The petitioner/acquiring body disputes the contention. The contention of the petitioner is that 12% component will be payable only on market value as determined under Section 23 and that amount of solatium payable under Section 23 (2) cannot be added to such market value for the purpose of computation of interest payable under Section 23(1-A).

3. The learned Advocate for the petitioner/acquiring body places reliance on the judgment of the Hon’ble Supreme Court in the case of *State of Punjab Vs. Amarjit Singh*¹, and particularly draws attention to paragraphs 10, 11 and 17 which are reproduced herein below for ready reference :-

“10. Section 23(1) refers to market value of the land on the date of publication of the notification under Section 4(1) of the Act as a relevant factor for determining the amount of compensation to be awarded for land acquired under the Act. Sub-section (2) provides that in addition to the market value of the land determined under Section

¹ 2011 (4) SCC 734

23(1), the Court shall, in every case, award a sum of 30% on such market value in consideration of the compulsory nature of acquisition.

11. Sub-section (1A) of Section 23, inserted by Act 68 of 1984 provides that in addition to the market value of the land, as provided under Section 23(1), the Court shall, in every case, award an amount calculated at the rate of 12% per annum on such market value for the period commencing on or from the date of publication of the notification under Section 4(1) in respect of such land to the date of award of the collector or the date of taking possession of the land, whichever is earlier. The additional amount under Section 23(1A) and solatium under Section 23(2) are both payable only on the market value determined under Section 23(1) of the Act and not on any other amount. Solatium under Section 23(2) is not payable on the additional amount nor additional amount under Section 23(1A) payable on solatium. Solatium and additional amount are also not payable on the damages/expenses that may be awarded under second to sixth factors under Section 23(1) of the Act.

17. In view of the above, the appeal is allowed, the orders of the High Court and the Executing Court, in so far as they hold that additional amount under Section 23(1A) is payable on solatium, are set aside. It is declared that additional amount under Section 23(1A) is awardable only on the market value determined under the first factor of Section 23(1) of the Act and cannot be calculated on the solatium payable under Section 23(2) of the Act.”

4. Learned advocate for the respondent/land owner places reliance on paragraph 32 of judgment of the Allahabad High Court in the case of ***State of UP Vs. Ghanshyam Singh***², which is reproduced herein below for ready reference:-

“32. Since the amount of solatium is a part or component of compensation calculated in view of provisions of section 23(2) of the Act, so legally interest is payable over entire amount of compensation so calculated including the amount of solatium, in view of provisions of sections 28 and 34 of the Act, and the Additional District Judge has acted wrongly and illegally with material irregularity in refusing interest over the amount of solatium by observing specifically mentioning in the judgment that “no interest will be payable on amount of solatium.” The above finding of Additional District Judge are perverse and against statutory provisions of law, and are liable to be set aside.”

5. Section 23 of the LA Act deals with the matters to be considered in determining compensation. Section 23(1) provides that, while determining compensation to be awarded for acquired land, the Court shall first take into consideration market value of the land as on the date of publication of notification under Section 4(1). Second 23(1-A) provides that, in addition to market value of the land as determined by the Court, 12% interest per annum shall be paid on such market value commencing from the date of

notification under Section 4(1) till the date on which award under Section 11 of the LA Act is passed by the Land Acquisition Officer. Section 23(2) provides for payment of 30% solatium upon market value of the land.

6. It will also be appropriate to refer to Section 28 of the LA Act, which provides that in cases where, upon a reference made by the land owner, the amount of compensation is enhanced by the Reference Court, interest at the rate of 9% per annum will be payable on the enhanced amount of compensation as determined by the Court for the initial period of one year from the date of taking possession and at the rate of 15% thereafter.

7. Section 28 of the LA Act uses the word “compensation”. As against this, Section 23(1-A) and Section 23(2) of the LA Act use the words “market value”. Compensation as determined under the Act includes the market value and other factors enumerated under Section 23 of the LA Act. The component of 12% interest payable under Section 23(1-A) is payable only on the market value and not on the compensation.

8. The judgment of the Allahabad High Court, pertains to payment of interest under Section 28 and Section 34. As stated above, interest payable under Section 28 and 34 is payable on the

amount of compensation which obviously will include the solatium. However, interest component under Section 23(1-A) is payable only on the market value and not on the compensation. Therefore, while computing interest payable under Section 23(1-A) of the LA Act, the amount of solatium cannot be included. The interest is payable only on market value as determined under Section 23(1-A).

9. The learned Executing Court has erred in considering taking into consideration the amount of solatium while determining interest component under Section 23(1-A) of the LA Act.

10. In view of the aforesaid, Writ Petition is **allowed** in the following terms:-

- (i) Order dated 15.12.2021 passed by the learned 3rd Joint Civil Judge Senior Division, Washim, on Exhibit 19 in Special Darkhast No.08 of 2015 is quashed and set aside.
- (ii) The learned Executing Court is directed to calculate the amount of compensation afresh excluding the amount of solatium for determining component of interest payable under Section 23(1-A) of the LA Act.

(ROHIT W. JOSHI, J.)