

IN THE PESHAWAR HIGH COURT,
PESHAWAR,
[Judicial Department].

F.A.O. No.28-P/2017

Land Acquisition Collector,
M-1 Bara Banda, Noshehra etc

Appellants (s)

Versus

Khana Gul and others.

Respondents

For Petitioner :- Mr. Aftab Ahmad Durani, Adv.

For Respondent :- M/S Ahmad Ali Khan and Gohar Zeb
Advocates.

Date of hearing: **28.09.2017.**

JUDGMENT

ROOH-UL-AMIN KHAN, J:- This appeal has been filed by the appellants-judgment debtors against the order of the learned Executing Court dated 07.12.2016, whereby their application with regard to submission of amended Goshawara and satisfaction of the decree in light thereof, has been turned down.

2. Learned counsel for the appellants-judgment debtors contended that no compound interest could be paid on the compulsory acquisition charges; that the appellants-judgment debtors while submitting Goshawara before the learned Executing Court for execution of the decree in light thereof, inadvertently added 6 percent compound interest on the compulsory acquisition charges, hence, an

application in this regard to amended the Goshawara was submitted, but the same was turned down by the learned Executing Court haphazardly and in a slipshod manner, hence, the same is liable to be reversed.

3. Conversely, learned counsel for the respondents-decree holders contended that the matter of outstanding decretal amount was settled between the parties before the learned Executing Court on the ground that the decree holders agreed upon the schedule of payment furnished by them bearing their endorsement and no objection as well, hence, they cannot evade from their own commitment. He referred to a receipt of Nazir of the Court wherein the entire outstanding decretal amount has been deposited in the Court and in this way the decree has been satisfied.

4. Having heard the arguments of learned counsel for the parties, it appears from the record that during execution proceedings the appellants-judgment debtors submitted Goshawara and agreed to pay Rs.9796920/- to the decree holders as decretal amount. The aforesaid amount was deposited by them in the Court, as is manifest from receipt of Nazir of the Court. In this view of the matter, the decree has already been satisfied but eventually this appeal has been filed only for academic purpose which cannot be entertained. So far as the grievance of the judgment debtors about payment of 6% compound interest on the compulsory acquisition charges is concerned, section 34 of

the Land Acquisition Act, 1894, mandates the Land Acquisition Collector to pay compound interest on the compulsory acquisition charges. Compound interest at the rate specified by the Statute on the subject is payable by the Collector or may be awarded by the Referee Court on the amount of compensation in excess of amount determined by the Collector. Such interest is to be paid retrospectively with effect from the date the possession of the land is taken over by the Collector and till such time that the excess amount was deposited in the Court. The submission of learned counsel for the appellants that interest is not payable on the amount of compulsory acquisition charges is misconceived. The payment of compulsory acquisition charges is not an excess amount, rather it is part of the market value of the land under acquisition. Section 23 of the Act *ibid*, empowers the Referee Court to award a sum at the rate of 15% to the land owner on account of compulsorily depriving him from his land.

5. For what has been discussed above, the impugned order of the learned Executing Court, is well reasoned and in accordance with law, hence, not open to any interference by this Court. Accordingly, this appeal stands dismissed.

Announced:

28.09.2017

Siraj Afridi P.S.

JUDGE

Mr. Justice Rooh-ul-Amin Khan.

