

2025:PHHC:029345



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Civil Revision No. 784 of 2025 (O&M)
Date of Decision: 01.03.2025**

Greater Mohali Area Development Authority (GMADA)
through its Additional Chief Administrator

..... Petitioner

Versus

Bhagwan Saroop through his legal heirs
Hardev Kumar (son) and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Argued By: Mr. R.S. Khosla, Senior Advocate, assisted by
Mr. Aman Sharma, Advocate
for the petitioner.

Mr. Vijay Lath, Advocate
for **contesting** respondent Nos. 1 to 4—landowners.

Mr. Vishnav Gandhi, Deputy Advocate General, Punjab
for respondent Nos. 5 & 6.

HARKESH MANUJA, J.

The petitioner-Greater Mohali Area Development Authority (**for short “GMADA”**), by way of present revision petition, seeks setting aside of two orders, **(i) order dated 23.01.2025 (Annexure P-7)**, whereby an application filed under Section 151/152 of the Code of Civil Procedure, 1908 (**for short “CPC”**) at the instance of land-owners seeking correction in the Award dated 23.12.2022 (Annexure P-1) passed by the learned Additional District Judge, SAS Nagar (**for short “Reference Court”**), has been allowed; **(ii) order dated 23.01.2025 (Annexure P-8)**, whereby an

application moved at the instance of petitioner seeking recalling of the order dated 09.12.2024, vide which the warrants of attachment *qua* its property were issued, has been rejected.

FACTS

[2] Briefly stating, certain land owned by the respondents-landowners situated in Village Sambalkhi, Hadbast No. 292, Tehsil and District SAS Nagar (Mohali) came to be acquired vide Notification dated 04.10.2013 issued under Section 4 of the Land Acquisition Act, 1894 (**hereinafter to be referred as “1894 Act”**) for public purpose namely “for construction of 200 feet wide road”. Later, notification under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (**hereinafter to be referred as “2013 Act”**) read with Section 6 of 1894 Act was issued on 21.07.2014. An Award No. 561, dated 27.11.2015 was passed by the Land Acquisition Collector (**for short “LAC”**) while exercising the powers under Section 26 of 2013 Act, having assessed the market value @ Rs. 90,00,000/- per acre for *chahi* land; Rs. 2,19,00,000/- per acre for *Gair Mumkin* land, besides awarding other statutory benefits. In terms thereof, the respondents-landowners were released compensation on 07.01.2016.

[3] Being aggrieved of the market value assessed by the LAC, the respondents-landowners filed reference under Section 64 of 2013 Act seeking enhancement of compensation including the market value along with other statutory benefits and the same came to be allowed by the Reference Court vide its decision dated 23.12.2022, thereby enhancing the market value to Rs. 2,81,94,139.9 per acre with grant of 100% solatium as

well as other benefits. The operative portion of the award is extracted hereunder:-

“ In view of the reasons discussed herein before, the present petitions are hereby allowed and the compensation awarded in this case by the Learned Land Acquisition Collector, SAS Nagar vide Award No. 561 dated 27.11.2015 is hereby enhanced at the rate of Rs. 2,81,94,139.9 per acre, which is to be paid by the respondents to the petitioners and in addition to it, the petitioners are also held entitled to A.P. @ 12% from dated 04.10.2013 (i.e. the date of notification) till 27.11.2015 (i.e. the date of the Award No. 561) alongwith interest as provided under Section 80 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the solatium @ 100%, which is to be paid by the respondents to the petitioners. ”

[4] Still dissatisfied, two appeals came to be preferred before this Court, (i) RFA-1858-2023 at the instance of landowners-respondents; and (ii) RFA-221-2024 at the instance of petitioner-GMADA. Vide interim order dated 24.09.2024 (Annexure P-2), this Court stayed the disbursement of 1/3rd of the enhanced compensation subject to appellant-petitioner/GMADA making payment of balance enhanced amount to the landowners within eight weeks.

[5] It is the case set up by the petitioner that in terms of the aforementioned interim order, enhanced compensation was paid to the respondents-landowners on 11.11.2024 whereas it was pleaded by respondents/ landowners that a substantial part of compensation yet remained unpaid to them. Thereafter, both the sides furnished their

respective calculations before the Executing Court. While submitting their calculations, the respondents-landowners arrived at a figure by calculating interest on the enhanced amount @ 9% per annum for the first year from the date of taking over of possession of the acquired land and for the subsequent period @ 15% as prescribed under Section 72 of 2013 Act. The matter was agitated before the Executing Court by the petitioner. Vide order dated 27.11.2024 (Annexure P-4), the Executing Court, while adjudicating upon the calculations, rejected the contentions made by the respondents-landowners, having recording that the Reference Court-cum-Authority in its Award dated 23.12.2022 mentioned about grant of interest under Section 80 of 2013 Act, and there was no reference made about award of interest under Section 72 thereof and thus, it was recorded that the Executing Court, being bound by the decree / award, could not travel beyond it.

[6] Later, during pendency of the execution proceedings, on account of non-payment of enhanced amount in terms of interim order passed in RFAs by this Court, an order dated 09.12.2024 came to be passed whereby warrants of attachment were issued with respect to the properties owned by the petitioner. Faced with this, the petitioner filed objections to it, while invoking the provision of Order 21 Rule 58 of CPC assailing the attachment order, besides filing separate application dated 16.12.2024 for seeking stay of order dated 09.12.2024.

[7] On the other hand, respondents-landowners filed application under Sections 151/152 of CPC before the Court below on 23.12.2024 for seeking correction in the Award dated 23.12.2022 so as to replace the term of “Section 80” to “Section 72” of 2013 Act therein, while stating that the

Reference Court-cum-Authority though intended to award interest under Section 72 of the Act on enhanced compensation, however, on account of clerical / inadvertent mistake mentioned about Section 80 of 2013 Act. The said application was opposed at the instance of petitioner, having filed detailed reply dated 22.01.2025. The Court below, vide its order dated 23.01.2025, allowed the prayer made on behalf of respondents-landowners and ordered that reference to Section 80 in the Award dated 23.12.2022 be read as Section 72 of 2013 Act.

[8] In such circumstances, by way of present revision petition, challenge has been laid on behalf of the petitioner to the aforementioned order dated 23.01.2025 passed by the Court below, besides having assailed another order dated 23.01.2025 passed by the Executing Court, whereby the application filed at the instance of petitioner for staying the warrants of attachment qua the property was even dismissed.

CONTENTION(S) ON BEHALF OF PETITIONER

[9] Impugning the aforementioned orders, learned Senior Counsel appearing on behalf of the petitioner submits that once, a specific mention about award of interest under Section 80 of 2013 Act was made in the decision rendered by the Reference Court-cum-Authority, any change therein to replace the term “Section 80” to “Section 72” of 2013 Act amounted to review thereof as well as its reconsideration on merits, which was wholly impermissible. It was also submitted that once, an appeal against the Award dated 23.12.2022 passed by the Reference Court was subjudice before this Court, no such application under Section 151/152 of CPC seeking correction thereof could have been entertained. It was further submitted that

when the Executing Court while passing an order dated 27.11.2024 on an earlier occasion reasoned that by treating the interest on the enhanced compensation as stipulated under Section 72 of 2013 Act while ignoring the mentioning of Section 80 in the award passed by the Reference Court was travelling beyond its specifics, any correction or modification therein was not permissible for the Executing Court.

[9.1] Further, it was submitted that once, objections filed under Order 21 Rule 58 of CPC at the instance of petitioner against the warrants of attachment of its property were pending before the Executing Court, rejection to its application for grant of stay thereof was wholly illegal, as the Executing Court, before proceeding further on the stay application, was required to first decide the objections. Also, it was submitted that in case the properties owned by the petitioner were attached at the first instance, there was no purpose left for adjudication upon its objection at a later stage, as it was going to cause irreparable loss to the petitioner.

[9.2] In support of his contentions, learned Senior Counsel placed reliance upon decisions rendered by the Hon'ble Supreme Court in cases (i) "***Dwarka Dass Versus State of Madhya Pradesh***" 1999 (2) RCR (Civil) 56; (ii) "***Parsion Devi Versus Sumitri Devi***" 1997 (4) RCR (Civil) 458; and (iii) "***S. Murali Sundaram Versus Jothibai Kannan & Ors.***", 2023 (2) Apex Court Judgments (SC) 93; and thus, prayed for acceptance of the instant petition. Relevant paras from the aforementioned cited judgments are extracted hereunder:-

- (i) ***Dwarka Dass Versus State of Madhya Pradesh;***
1991 (2) RCR (Civil) 56;

Para 5. *Section 152 Civil Procedure Code provides for correction of clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission. The exercise of this power contemplates the correction of mistakes by the Court of its ministerial actions and does not contemplate of passing effective judicial orders after the judgment, decree or order. The settled position of law is that after the passing of the judgment, decree or order, court or the tribunal becomes functus officio and thus being not entitled to vary the terms of the judgments, decrees and orders earlier passed. The correction contemplated are of correcting only accidental omission or mistakes and not all omissions and mistakes which might have been committed by the Court while passing the judgment, decree or order. The omission sought to be corrected which goes to the merits of the case is beyond the scope of Section 152 for which the proper remedy for the aggrieved party is to file appeal or review application. It implies that the Section cannot be pressed into service to correct an omission which is intentional, how erroneous that may be. It has been noticed that the courts below have been liberally construing and applying the province of Sections 151 and 152 of the Civil Procedure Code even after passing of effective orders in the lis pending before them. No Court can under the cover of the aforesaid sections modify, alter or add to the terms of its original judgment, decree or order. In the instant case, the trial court specifically held the respondents-State liable to pay future interest only despite the prayer of the appellant for grant of interest with effect from the date of alleged breach which impliedly meant that*

the court had rejected the claim of the appellant in so far as pendente lite interest was concerned. The omission in not granting the pendente lite interest could not be held to be accidental omission or mistake as was wrongly done by the trial court vide order dated 30th November, 1973. The High Court was, therefore, justified in setting aside the aforesaid order by accepting the revision petition filed by the State.

(ii) Parsion Devi Versus Sumitri Devi; 1997 (4) RCR (Civil) 458;

Para 8. *Under Order 47 Rule 1 Civil Procedure Code a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 Civil Procedure Code. In exercise of the jurisdiction under Order 47 Rule 1 Civil Procedure Code it is not permissible for an erroneous decision to be “reheard and corrected”. A review petition, it must be remembered has a limited purpose and cannot be allowed to be “an appeal in disguise”.*

(iii) S. Murali Sundaram Versus Jothibai Kannan & Ors.; 2023 (2) Apex Court Judgments (SC) 93.

Para 5.3 *In the case of Shanti Conductors (P) Ltd. (supra), it is observed and held that scope of review under Order 47 Rule 1 CPC read with Section 114 CPC is limited and under the guise of review, the petitioner cannot be permitted to reagitate and reargue questions which have already been addressed and decided. It is further observed that an error which is not self-evident and has to be detected by a process*

of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. ”

CONTENTION(S) ON BEHALF OF RESPONDENT(S)-LANDOWNER(S)

[10] On the other hand, learned counsel for respondents-landowners submitted that upon wholesome reading of the award dated 23.12.2022 (Annexure P-1) passed by the Reference Court, it could clearly be discerned that the Court below throughout its discussion intended to award all statutory benefits provided under 2013 Act in favour of respondents-landowners on the amount of enhanced compensation, including that of interest thereupon, though while referring to the relevant provision, it was inadvertently and on account of clerical error mentioned as Section 80 instead of Section 72 of 2013 Act. It was, thus, submitted that the correction ordered by the Court below vide its decision dated 23.01.2025 (Annexure P-7) to replace Section 80 with Section 72 of 2013 Act while invoking Section 151/152 of CPC was well within its powers and thus, the impugned order in this regard warrants no interference.

[10.1] In support, learned counsel for respondent Nos. 1 to 4-landowners relied upon the decision rendered by the Hon’ble Apex Court in case **“Pratibha Singh Versus Shanti Devi Prasad” AIR 2003 SCC 643**. Relevant paragraph No.17 thereof is reproduced hereunder:-

“ Para-17 *When the suit as to immovable property has been decreed and the property is not definitely identified, the defect in the court record caused by overlooking of provisions contained in Order 7 Rule 3 and Order 20 Rule 3 of the CPC is*

capable of being cured. After all a successful plaintiff should not be deprived of the fruits of decree. Resort can be had to Section 152 or Section 47 of the CPC depending on the facts and circumstances of each case-which of the two provisions would be more appropriate, just and convenient to invoke. Being an inadvertent error, not affecting the merits of the case, it may be corrected under Section 152 of the CPC by the Court which passed the decree by supplying the omission. Alternatively, the exact description of decretal property may be ascertained by the Executing Court as a question relating to execution, discharge or satisfaction of decree within the meaning of Section 47 CPC. A decree of a competent Court should not, as far as practicable, be allowed to be defeated on account of an accidental slip or omission. In the facts and circumstances of the present case we think it would be more appropriate to invoke Section 47 of the CPC.”

Further, with respect to grant of stay qua the warrants of attachment by the Executing Court, it was submitted that once the petitioner failed to deposit the complete enhanced amount in favour of respondents-landowners in terms of interim order dated 24.09.2024 (Annexure P-2) passed by this Court in RFAs, the Executing Court was well within its jurisdiction to decline grant of interim protection in favour of petitioner. It was, thus, prayed that the present revision petition was liable to be dismissed.

FINDINGS

[11] Having heard learned counsel for the parties and perusing the paper-book / relevant record as well as law cited at bar, no substance can be found in the submission(s) made on behalf of the petitioner.

[12] Before delving into merits of the case in hand, it may be necessary to go through the provisions of Section 152 CPC as well as the fundamental ex-position of law made thereupon by the Hon'ble Apex Court from time to time.

“(a) Section 152 CPC:

Amendment of judgments, decrees or orders-
Clerical or arithmetical mistakes in judgments, decrees, or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties.”

(b) Decision(s) rendered by the Hon'ble Supreme Court in cases:-

(i) *Master Construction Co. (P) Ltd. Versus State of Orissa and another; 1966 AIR Supreme Court 1047;*

Relevant portion from para 7.An arithmetical mistake is a mistake of calculation; a clerical mistake is a mistake in writing or typing. An error arising out of or occurring from an accidental slip or omission is an error due to a careless mistake or omission unintentionally made. There is another qualification namely, such an error, shall be apparent on the face of the record, that is to say, it is not an error

which depends for its discovery, on elaborate arguments on questions of fact or law. The accidental slip or omission is an accidental slip or omission made by the court. The obvious instance is a slip or omission to embody in the order something which the court in fact ordered to be done.. This is sometimes described as a decretal order not being in accordance with the judgment. 'But the slip or omission may be attributed to the Judge himself. He may say something or omit to say something which he did not intend to say or omit. This 'is described as a slip or omission in the judgment itself. The cause for such a slip or omission may be the Judge's inadvertence or the, advocate's mistake. But, however wide the said expressions are construed, they cannot countenance a re-argument on merits on questions of fact or law, or permit a party to raise new arguments which he has not advanced at the first instance.....

(ii) *Tilak Raj Versus Baikunthi Devi (D) By LRs, 2010 (12) SCC 585;*

Para 14. *The aforesaid mistake was of clerical nature which could have been corrected by applying the provisions of Section 152 of the CPC. Counsel appearing for the respondents also during his submissions fairly accepted the aforesaid position. The remedy that was available to the appellant was to file an application seeking for amendment of the decree by way of correcting the clerical mistake in respect of Khasra Number. Since the mistake was clerical in nature and the appellant being not responsible for the said*

clerical mistake which had occurred due to wrong recording of Khasra Number in Khasra Girdawari, we find no reason as to why such a genuine and bona fide mistake cannot be allowed to be corrected by exercising the powers under Section 152 of the CPC. In K. Rajamouli vs. A.V.K.N. Swamy, (2001) 5 SCC 37, this Court held as follows:-

"Section 152 provides that a clerical or arithmetical mistake in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties".

Para 15. *Since the court exists to dispense justice, any mistake which is found to be clerical in nature should be allowed to be rectified by exercising inherent power vested in the court for sub-serving the cause of justice. The principle behind the provision is that no party should suffer due to bona fide mistake. Whatever is intended by the court while passing the order or decree must be properly reflected therein otherwise it would only be destructive of the principle of advancing the cause of justice. In such matters, the courts should not bind itself by the shackles of technicalities.*

(iii) Srihari (Dead) through LR. Ch. Niveditha Reddy Versus Syed Maqdoom Singh and others, 2015 (1) SCC (Civil) 610

Para 12. *From the language of Section 152 of the Code, as quoted above, and also from the*

interpretation of the section given in the case of State of Punjab vs. Darshan Singh (supra), the section is meant for correcting the clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission. It is true that the powers under Section 152 of the Code are neither to be equated with the power of review nor can be said to be akin to review or even said to clothe the Court under guise of invoking after the result of the judgment earlier rendered. The corrections contemplated under the section are of correcting only accidental omissions or mistakes and not all omissions and mistakes. The omission sought to be corrected which goes to the merits of the case is beyond the scope of Section 152. In Bijay Kumar Saraogi (supra) also it has been reiterated that Section 152 of the Code can be invoked for the limited purpose of correcting clerical errors or arithmetical mistakes in judgments or accidental omissions.

Para 13. *Now we have to examine whether by the impugned order, the High Court has only corrected the clerical, arithmetical or accidental omission in the decree passed or not. To appreciate the same, first we think it necessary to mention as to what the word “expression accidental omission” means. In Master Construction Co. (P) Ltd. Vs. State of Orissa and Another AIR 1966 SC 1047, expression – accidental slip or omission has been explained as an error due to a careless mistake or omission unintentionally made. It is further observed in the said case that there is*

another qualification, namely, such an error shall be apparent on the face of the record, that is to say, it is not an error which depends for its discovery, elaborate arguments on questions of fact or law.

Para 14. *Whether the High Court has acted within the scope of Section 152 of the Code or not, we have to see as to what were the pleadings of parties, what was the decree passed, and what was the correction made in it. ”*

[13] A perusal of the statutory provision as well as the ex-position of law made thereupon reflects that essentially the power under Section 152 CPC flows from the principle of law that “an act of Court shall prejudice no man” and such power can be exercised in the facts and circumstances of the present case for the following brief reasons:-

- (a) An accidental slip or omission is an error due to a careless mistake or omission unintentionally made. The accidental slip or omission is an accidental slip or omission made by the Court which may say something or omit to say something which it did not intend to say or omit.
- (b) accidental and unintentional omissions or careless mistakes which are *bona fide* and genuine, can be corrected without altering or adding to the terms of original decision so as to carry out and express the real intent;

- (c) error, which is apparent on the face of record and not dependent upon its discovery or elaborate arguments or questions of facts and law, can be rectified; and
- (d) whatever is intended by the Court while passing the order or decree must be properly reflected therein otherwise it would only be destructive of the principle of advancing the cause of justice as the Court would then be binding itself by the shackles of technicalities, therefore, the Court should always be ready and willing to rectify its mistake.

[14] At this stage, it may also be relevant and desirable to run through Section 72 and Section 80 of 2013 Act which are re-produced hereunder:-

“ Section 72–Collector may be directed to pay interest on excess compensation-

If the sum, which in the opinion of the Authority concerned, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Authority concerned may direct that the Collector shall pay interest on such excess at the rate of nine per cent per annum from the date on which he took possession of the land to the date of payment of such excess into Authority:

Provided that the award of the Authority concerned may also direct that where such excess or any part thereof is paid to the Authority after the date or expiry of a period of one year from the date on which possession is taken, interest at the rate of

fifteen per cent per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Authority before the date of such expiry.

Section 80–Payment of interest-

When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per cent per annum from the time of so taking possession until it shall have been so paid or deposited:

Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent per annum shall be payable from the date or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.

[14.1] A perusal of the aforementioned two provisions show that under Section 80 of 2013 Act, the Collector needs to award interest in favour of the landowners whose land has been acquired, in case the compensation is not paid or deposited on or before taking possession of the land. Collector has to grant interest @ 9% per annum for one year from the date on which the compensation was deposited / paid whereas after the expiry of one year, the interest has to be awarded @ 15% per annum from the date of taking possession of acquired land till the compensation is deposited/ paid to the landowner.

[14.2] On the other hand, as per Section 72 of 2013 Act, in case the appropriate authority-cum-reference Court finds that the compensation needs

to be enhanced in comparison to that awarded by the Collector, it may direct that the Collector shall pay interest for the first year on the excess amount @ 9% per annum from the date he took possession of the land to the date of payment of such excess amount, whereas after the expiry of one year from the date of taking over of possession, interest needs to be calculated @ 15% per annum.

[15] Now coming to the facts of the present case, it is evident that while disposing of the reference filed under section 64 of 2013 Act at the instance of respondents-landowners for seeking enhancement of compensation, learned Reference Court-cum-Authority increased the market value of the land under acquisition to Rs. 2,81,94,139.9 per acre. Besides it, the Reference Court also awarded other statutory benefits as prescribed under section 69(2) & 69(3) of 2013 Act, however, while intending to award interest on the enhanced compensation, instead of mentioning about Section 72 of 2013 Act, inadvertently it recorded Section 80 therein. At the cost of repetition, yet finding it necessary, relevant extract of paragraphs 28 & 30 of award dated 23.12.2022 is reproduced hereunder:-

*“**Para 28**Furthermore, this Court is of the considered view that as per Section 69 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the A.P. @ 12% from the date of publication of the primary Notification to the date of Award is also to be awarded in addition to the market value of the land acquired.*

Furthermore, as per Section 69 (3) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the solatium @ 100% over the total compensation amount is to be awarded

*in addition to the aforesaid market value arrived at by adding the multiplier factor of '1', Furthermore, the petitioners are also entitled to interest as provided under **Section 80** of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, besides their entitlement for the aforesaid enhanced compensation.....*

Para 30. *In view of the reasons discussed herein before, the present petitions are hereby allowed and the compensation awarded in this case by the Learned Land Acquisition Collector, SAS Nagar vide Award No. 561 dated 27.11.2015 is hereby enhanced at the rate of Rs. 2,81,94,139.9 per acre, which is to be paid by the respondents to the petitioners and in addition to it, the petitioners are also held entitled to A.P. @ 12% from dated 04.10.2013 (i.e. the date of notification) till 27.11.2015 (i.e. the date of the Award No. 561) alongwith interest as provided under Section 80 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the solatium @ 100%, which is to be paid by the respondents to the petitioners. ”*

[16] From a close conjoint reading of the above mentioned extract from the award along with the sequence and manner of narration made therein, it is apparent that while grant of benefit of interest to the landowners-respondents, Section 80 of 2013 Act finds mention immediately alongside their entitlement for the enhanced compensation. Thus, it can be clearly discerned that though the Authority visibly intended to grant the benefit of statutory interest on the enhanced compensation, yet on account of an obvious unintentional and inadvertent accidental omission went on to specify it as award of interest under Section 80 of 2013 Act while

mentioning the incorrect statutory provision for it. This view was further fortified from the fact that even as per the case set up by the petitioners, the benefit of interest under Section 80 *ibid* was not available to the landowners as the compensation amount in terms of original award by Collector admittedly stood deposited much before their filing of reference under Section 64 of 2013 Act immediately at the time of taking over of possession and therefore, there was no occasion at all for the Reference Court-cum-Authority to have repeated the same benefit to respondents. Moreso, in its entire award, the Reference Court-cum-Authority nowhere either specifically or even impliedly declined the statutory benefit of interest under Section 72 of 2013 Act to the respondents-landowners on the enhanced compensation and not even recorded any specific reasons for holding them disentitled for the same. In such circumstances, it was more than visible that while dealing with and disposing of the reference under Section 64 of 2013 Act, which was enacted by the Parliament only in the recent past, such *bona fide* mistake of mentioning of an incorrect statutory provision occurred and it was clearly and solely attributable to the Reference Court alone. Accordingly in the given facts, the Reference Court-cum-Authority having passed the impugned order about carrying out of necessary correction in the award dated 23.12.2022, so as to replace the term Section 80 with Section 72 of 2013 by rectifying its own unintended error and to do complete and sustainable justice committed no illegality. Moreover, it can neither held to be amounting to review of the Award dated 23.12.2022 nor even can be treated to be any fresh reconsideration of the claim set up by the landowners on merits and therefore, if the power under Section 152 CPC is not exercised in

such circumstances, the same would tantamount to defeating the object and purpose of the provision.

[17] Furthermore, no merit can be found in the contention raised on behalf of the petitioner that the Executing Court while passing an order dated 27.11.2024 once having went on to record that in the execution proceedings, the Court was not to go beyond decree as, no specific mention of grant of interest under Section 72 of 2013 Act was prescribed by the Reference Court cannot be made a ground for rejecting the prayer made by respondents-landowners for carrying out correction in the award dated 23.12.2022. In this regard, it may be pointed out here that at the time of passing of the order dated 27.11.2024 by the Executing Court, no such application under Section 152 CPC was either preferred or pending before the Court below and thus, the Executing Court was well within its jurisdiction to decline the benefit of interest under Section 72 of 2013 Act, to the landowners, the same not been specifically mentioned by the authority. However, once, an application under Section 152 CPC was later filed at the instance of landowners, in the changed circumstances, the same was rightly decided independently on its own merits without being influenced by the observations made in the order dated 27.11.2024 passed by the Executing Court.

[18] Moreover, even the judgments relied upon by the learned Senior Counsel appearing on behalf of petitioner would not apply to the facts and circumstances of the present case, as the case of *Dwaraka Das (supra)* was a matter wherein it was found that Section 152 of CPC was invoked for seeking correction of an intentional omission whereas in the facts of the present case, it has been specifically recorded that the omission about

mentioning of award of interest Section 80 instead of Section 72 of 2013 Act was an unintentional and *bona fide* error committed by the Reference Court-cum-Authority itself. Besides it, the decisions in case of *Parsion Devi (supra)* and *S. Murali Sundaram (supra)* would also not apply to the facts of the present case as those relate to the scope of power of review as prescribed under Order 47 Rule 1 CPC, whereas the correction ordered by the Reference Court in the facts and circumstances of the present case being an inadvertent omission was not to be termed as review of its original Award dated 23.12.2022.

[19] Besides it, in the facts of the case in hand, the dismissal of an application filed at the instance of petitioner for recalling of the warrants of attachment of its property was wholly justified as complete amount of compensation was not deposited with the Executing Court in terms of order passed by this Court in RFA. Even no specific challenge has been made in the present revision petition to the order dated 09.12.2024 vide which warrants of attachment was ordered with respect to the property of the petitioner. As regards the plea raised by the petitioner with respect to the pendency of objections filed on its behalf while invoking Order 21 Rule 58 of CPC against the warrants of attachment of property, the Court concerned in the given facts is requested to look into the grievance of petitioner-GMADA and decide those objections within reasonable time after affording opportunity of hearing to the respondents-landowners and upon following the statutory procedure.

[20] Accordingly, in view of the detailed discussion made hereinabove, finding no illegality or perversity with the power exercised by

the Court below, the present revision petition being devoid of merits, is therefore, **dismissed**.

[21] Pending miscellaneous application(s), if any, shall also stand disposed off.

March 01, 2025

'dk kamra'

(HARKESH MANUJA)

JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>