

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

Civil Appeal No. 35/2018

In

CPLA No. 18/2013.

Provincial Government & others

Petitioners.

Versus

Mustaqeem

Respondent.

PRESENT:-

1. The Advocate General Gilgit-Baltistan alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. Malik Shafqat Wali senior Advocate alongwith Mr. Rehmat Ali Advocate-on-Record for respondent.

DATE OF HEARING: - 19.07.2018.

JUDGMENT.

This petition has arisen out of the impugned judgment dated 14.05.2013 in Writ Petition No. 09/2010 passed by the learned Chief Court whereby the said Writ Petition filed by the respondent was partially allowed to the extent of 8% compound interest on the compensation amount from the date of award i.e. 03.08.2009 till the date of payment i.e. 06.07.2010, hence, this petition for leave to appeal. This court vide order dated 17.09.2013 issued notice to the respondent and the case is heard today.

2. The learned Advocate General submits that the respondent filed Writ Petition No. 09/2010 in the learned Chief Court for issuance of direction to the petitioners for payment of

amount under Award No. DK-1 Sakarkoi/2114/2009 dated 03.08.2009. He also submits that the respondent during hearing of the case in the learned Chief Court requested for withdrawal of his writ petition as compensation was released and paid to him while allowing of the request of respondent, the learned Chief Court directed the petitioner to pay 8% compound interest to him. Per learned Advocate General, the awarded compensation was received by the respondent without protest, therefore, under Section 18 of The Land Acquisition Act, 1894 no reference can be filed against any award which is accepted without protest, hence, the writ petition is not maintainable in circumstances. He submits that the learned Chief Court fell in error to consider the procedure after passing of award. He submits that the said impugned judgment is the result of mis-interpretation of law and misreading and non-reading of the facts of the case which is not sustainable.

3. On the other hand, Malik Shafqat Wali learned senior counsel appearing on behalf of the respondent supports the impugned judgment passed by the learned Chief Court. He contends that admittedly the compensation amount i.e. Rs. 38,08,404/- had been paid to the respondent vide cheque No. 10719606 of Karakoram Cooperative Bank Kashrote Branch Gilgit. The petitioner, however, failed to pay 8% compound interest on the amount of compensation from the date of possession of acquired land till the payment of compensation. Per learned counsel, the acquired land compensation was included in revised PC-1 in the

year 2009 and the said PC-1 was approved for the payment of 100% land compensation of the respondent. The respondent is entitled for the payment of 100% land compensation alongwith 8% compound interest thereto under Section 34 of The Land Acquisition Act, 1894. He submits that the learned Chief Court has rightly allowed the writ petition filed by the respondent. He prays that the said impugned judgment may pleased be maintained being well reasoned and well founded.

4. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned judgment passed by the learned Chief Court. We agree with the contentions/legal plea raised by the learned Advocate General. The impugned judgment dated 14.05.2013 passed by the learned Chief Court is not tenable in law.

5. In view of the above discussions, we convert this petition into an appeal and the same is allowed. Consequently, the impugned judgment dated 14.05.2013 in Writ Petition No. 09/2010 passed by the learned Chief Court is set aside.

6. The appeal is allowed in above terms.

Chief Judge.

Judge.