

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

Date of decision: 06.10.2015

CWP No.24260 of 2014

Randhir Singh & others

....Petitioners

Versus

Commissioner, Hissar Division, Hissar & others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Raghbir Chaudhary, Advocate, for the petitioners.

Mrs. Palika Monga, DAG, Haryana, for respondent Nos.1 to 4.

Mr. Sunil K. Sahore, Advocate, for respondent No.5.

HEMANT GUPTA, J.

The petitioners have sought quashing of the orders dated 14.08.2014 (Annexure P-10) and 25.08.2015 (Annexure P-11), whereby determination of the amount of compensation of Rs.65 lacs per acre in respect of land of Village Nirjan vide Award dated 11.02.2014 and Rs.15 lacs per acre in respect of land of Village Ashrafgarh vide Award dated 06.02.2014 respectively was found to be correct.

The facts in brief are that the land of the petitioners situated in Village Nirjan became subject matter of acquisition for the public purpose of widening of National Highways No.71 from 287.290 KMs to 291.657 and 292.705 to 307.000 KMs Jind to Punjab Border Section, when notification

under Section 3-A of the National Highways Act, 1956 (for short 'the Act') was issued on 21.08.2012, whereby land measuring 4628.07 acre was intended to be acquired. The petitioners filed objections, as contemplated under Section 3-C of the Act, but a notification under Section 3-D of the Act was issued on 07.03.2013. The District Revenue Officer was appointed as Competent Authority -cum- Land Acquisition Collector in terms of Section 3(a) of the Act.

The grievance of the petitioners is that the Competent Authority has announced Award on 11.02.2014, but without issuing any notice to the writ petitioners, as contemplated under Section 3G of the Act. None of the land-owners was associated in the process of determination of the amount of compensation and that the Competent Authority has got the amount fixed from a Committee headed by the Commissioner, Hissar Division, Hissar which includes the representative of the National Highway Authority of India. The proceedings of such Committee have been appended with the writ petition as Annexures P-5 & P-6.

The petitioners earlier filed writ petitions before this Court challenging the action of the respondents in seeking report of the Committee. This Court while noticing that the Land Acquisition Collector would not be bound by the rates fixed by the Committee passed an order on 20.01.2014 in CWP No.874 of 2014 titled 'Maha Singh & another Vs. Commissioner, Hisar Division & others' directing the Land Acquisition Collector to adopt a judicious approach for determining the compensation of acquired land in accordance with law. It is, thereafter, Award dated 11.02.2014 (Annexure P-13) has been announced granting compensation at the rate of Rs. 65 lacs per acre excluding other statutory benefits.

The petitioners rely upon an order passed by a Division Bench of this Court in CWP No.1106 of 2013 titled 'Joginder Singh Vs. Commissioner, Rohtak Division, Rohtak -cum- Chairman of the Committee & others' decided on 20.05.2013, wherein the process of adjudication of the amount of compensation was found to be illegal. In the said case, a Committee headed by the Commissioner had recommended the amount of compensation to be awarded, which was followed by the Competent Authority without issuing any public notice, as contemplated under Section 3-G of the Act. It is, thus, contended that the Competent Authority is required to determine the amount of compensation not on the basis of report of the Committee, but on independent evidence after associating the land-owners.

In the written statement on behalf of respondent Nos.1 to 3, it is mentioned that the Competent Authority after considering all the factors including the location, situation, productivity etc. announced the Awards dated 06.02.2014 and 11.02.2014 in respect of land in Village Nirjan and Ashrafgarh respectively. It is also pointed out that pursuant to the orders passed by this Court, the petitioners were called; their statements have been recorded and the objections have been considered. After hearing the petitioners, considering the objections as well as examining the fact of location of the acquired land in urban area and rural area, compensation of Rs.65 lacs per acre in respect of Village Nirjan and Rs.15 lacs per acre in Village Ashrafgarh was determined. It is also pointed out that the rates fixed by the Committee were approved by the Competent Authority after issuing notices to the petitioners; considering their objections as well as after giving opportunity of personal hearing.

In a separate reply on behalf of respondent No.5, it is pointed out that the Awards were announced by the Competent Authority i.e. the District Revenue Officer on 14.08.2014 and 25.08.2014 in respect of Villages Nirajan and Ashrafgarh, District Jind.

We have heard learned counsel for the parties at length, but find no merit in the present writ petition. The amount of compensation has to be determined by the Competent Authority appointed under Section 3-G of the Act. The procedure for determining the amount of compensation is contained in Section 3G of the Act, which reads as under:

“3G. Determination of amount payable as compensation – (1)

Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

xx

xx

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired

xx

xx”

The amount of compensation has been determined as per the procedure prescribed in sub-section (3) of Section 3G of the Act, as reproduced above. It provides for a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired. The respondents have categorically averred that the amount of compensation was determined after following the procedure prescribed under the Act. The Committee has communicated its recommendations in respect of market value of the land to

be acquired. The Competent Authority is free to accept such recommendations or to Award such higher rate, as may be projected by the land-owners. Since there was no other projection made available by the land-owners, the Competent Authority accepted the assessment made by the Committee.

It may be stated that the amount of compensation awarded by the Competent Authority is not final. It is subject to determination by the Arbitrator to be appointed by the Central Government in terms of Clause (5) of Section 3G of the Act. Therefore, if the amount of compensation determined by the Competent Authority is found to be inadequate, the land-owners have the remedy to seek determination of the amount of compensation from the Arbitrator in accordance with the procedure contemplated under the Act.

The judgment referred to by the petitioners has no application to the facts of the present case. In the said case, the landowners were not given any opportunity in the process of determination of the amount of compensation. However, in the present case, the landowners have been given opportunity before determining the amount of compensation.

In view of the above, we do not find any merit in the present writ petition. The same is accordingly dismissed.

(HEMANT GUPTA)
JUDGE

06.10.2015
Vimal

(HARI PAL VERMA)
JUDGE