

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGRH

FAO No.5012 of 2013 (O&M)

Date of decision: 4.12.2015

Manjit Singh

.....Appellant

versus

National Highway Authority of India and others

.....Respondents

FAO No.5013 of 2013 (O&M)

Kuljeet Singh Sodhi and others

...Appellants.

Vs.

National Highway Authority of India and others

..Respondents.

FAO No.5014 of 2013 (O&M)

Paramjit Kaur Sodhi and others

...Appellants.

Vs.

National Highway Authority of India and others

..Respondents.

FAO No.5015 of 2013 (O&M)

Lakhwinder Singh Bhullar and another

...Appellants.

Vs.

National Highway Authority of India and others

..Respondents.

FAO No.5850 of 2013 (O&M)

M/s T.C.Spinner Pvt. Ltd.

...Appellant.

Vs.

Union of India and another

..Respondents.

FAO No.88 of 2014 (O&M)

Joginder Singh

...Appellant.

Vs.

National Highway Authority of India and others

..Respondents.

FAO No.2284 of 2014 (O&M)

Bhushan Power & Steel Ltd.

...Appellant.

Vs.

National Highway Authority of India and others

..Respondents.

FAO No.5558 of 2014 (O&M)

Joginder Singh and others

...Appellants.

Vs.

National Highway Authority of India and others

..Respondents.

**A n d**

FAO No.2672 of 2015 (O&M)

Gurpeet Kaur and others

...Appellants.

Vs.

National Highway Authority of India and others

..Respondents.

**Coram:** Hon'ble Mr. Justice Amit Rawal

**Present:** Mr.Anmol Rattan Singh, Sr.Advocate-Appellant in person  
Mr.Vishal Deep Goyal, Advocate for appellant in FAO  
No.2672 of 2015.

Mr. Anil Kshetarpal, Sr.Advocate with  
Mr.Maninder S.Saini, Advocate for the appellant in FAO  
No.2284 of 2014.

Mr.Rahul Sharma-I, Advocate for appellant in FAO No.5850 of  
2013.

Mr.H.S.Baath, Advocate for the appellant in FAO No.5558 of  
2014.

Mr.Manjit Singh, Advocate for the appellant in FAO Nos.5012  
to 5015 of 2013, 88 of 2014.

Mr. Gaurav Deep Goyal, Advocate for  
Mr. R.S.Madan, Advocate for NHA in FAO No.5012 to 5015,  
5850 of 2013, 88, 2284, 5558 of 2014 and 2672 of 2015.

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?

**Amit Rawal, J.(Oral)**

This order of mine shall dispose of nine FAOs bearing  
Nos.5012 to 5015, 5850 of 2013, 88, 2284, 5558 of 2014 and 2672 of 2015  
arising from the acquisition of land under National Highway Act, 1956.

Prime grievance of the appellant is that they have been denied  
statutory benefits as per the provisions of Section 23, 23(1-A), 23(2) and

28-A of the Land Acquisition Act, 1894 (for short 'the Act') which is applicable in view of law laid down by Division bench of this Court in ***M/s golden Iron and Steel Forging Vs. Union of India and others 2011(4) RCR(Civil) 375.***

Learned Senior counsel appearing on behalf of the appellant submits that land for different villages was acquired but neither Objecting Authority nor Arbitrator much less the Objecting Court where Objections under Section 34 of Arbitration and Conciliation Act, 1996 have been preferred, taken note of the afore-mentioned fact.

Mr.Gaurav Deep Goyal, Advocate for Mr.R.S.Madan, Advocate, learned counsel appearing on behalf of respondent No.1 submits that the judgment rendered by the Division Bench of this Court in ***M/s Golden Iron and Steel Forging (supra)*** is under challenge before the Supreme Court. The matter is being argued and there is likelihood that statutory benefits granted to the land owners would not be admissible. He further submits that there is a very little scope of interference whereby Objections under Section 34 of the Act have been dismissed as the Objection raised would not fall within the parameters of Section 34 of the Act.

I have heard learned counsel for the parties and appraised the paper book.

On going through the orders of the Adjudicating Authority-cum-Commissioner as well as the Objecting Court, I am of the view that categorical plea was raised for seeking statutory benefits *ibid* but the same have been declined in essence no reasons have also been assigned. I am

further of the view that there is non-application of mind while entertaining the claim of the land owners by the Arbitrator as well as by the Objecting Court.

The Division Bench of this Court in *M/s Golden Iron and Steel Forging (supra)* has held that the land owners whose land has been acquired under the National Highway Authority Act are entitled to statutory benefits. It would be apt to reproduce the relevant extract from *M/s Golden Iron and Steel Forging (supra)*.

“Thus, the essential principles that emerge from a reading of the aforementioned precedents, are:-

61. Thus, the essential principles that emerge from a reading of the aforementioned precedents, are :-

- (a) the public purpose shall not determine the amount of compensation;
- (b) it is immaterial whether land is acquired under one statute or another;
- (c) different compensation cannot be granted to different land owners based upon a different public purpose;
- (d) where, however, a statute denied solatium and interest to a landowner, the said statutory provision must satisfy the tests of a reasonable classification based upon an intelligible differentia and must disclose a rational nexus with the object sought to be achieved.

62. The question that would now merit consideration is whether the public purpose underlying the National Highways Act discloses a valid classification based upon an intelligible differentia as would enable us to hold that the provisions of the Act, do not suffer from the vice of discrimination in matters of payment of compensation vis-a-vis lands, acquired under the Land Acquisition Act.

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82.The expeditious construction of Highways, the expeditious conclusion of acquisition proceedings, the reference of disputes regarding compensation to an arbitrator, the statutory power to associate private entrepreneurs and the legal ability to access private capital, in our considered opinion has no relevance to the assessment/payment of compensation. The expeditious acquisition of land can be validly achieved by resorting to the urgency provisions contained in Section 17A of the Land Acquisition Act. The impugned enactment merely replaces the procedure for acquisition, envisaged by the Land Acquisition Act with a new procedure, stated to be expeditious, more efficient and in tune with the need for an expeditious construction of national highways, but does not disclose a distinct or peculiar public purpose as would justify the denial of solatium and other statutory benefits relating to compensation.

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85. Solatium is not a largesse or a mere subsidy that the State doles out to a hapless landowner in discharge of some benevolent exercise of governmental power. Solatium is an amount, paid by the State to an unwilling land owner, for compulsory appropriation of his property. The word solatium draws its meaning from the word “solace” that is comfort money given as a statutorily recognized gesture of conciliation for compulsorily depriving a land owner of his property. The importance of “solatium” cannot be over emphasized and any departure therefrom would, in our considered opinion, be justified only where the enactment discloses a reasonable classification for treating land owners differently. Solatium forms an integral component of compensation and, therefore, can only be denied where the statute satisfies the tests of valid classification.

86. Difference in procedure would not govern rights of parties to compensation. The difference, as repeatedly emphasized herein

before, must be such as would disclose a valid classification based upon an intelligible differentia and not mere differences of procedure. The public purpose must be such as cannot be achieved by resort to the provisions of the Land Acquisition Act and disclose such a distinct or peculiar object as could not be achieved under the Land Acquisition Act. We have carefully perused the Act, in our endeavour to understand the so called differentia sought to be pressed into service by counsel for the respondents and have made a concerted effort to understand their submissions but express out inability to determine any justification whether legal, factual or theoretical that would have us hold that the public purpose, underlying the amending Act constitutes a separate class and is so different from the public purpose under the Land Acquisition Act that denial of solatium and interest could be held to be based upon a valid classification and consequently a valid exercise of legislative power. We find no basis whether in the objects and reasons, in the written reply, the written submissions, as also from the assistance rendered to hold anything other than that as the provisions of the Act do not provide for grant of solatium and interest, they suffer from the vice of discrimination and violation of the provisions of Article 14 of the Constitution and would, therefore, be held to be ultra vires.

In view of the aforementioned facts, I am of the view that matter is required to be reconsidered by the Adjudicating Authority i.e. the Arbitrator to decide the claim of enhancement of the land owners keeping in view the observations made here-in-above in essence that land owners whose land is acquired under National Highway Authority, are entitled to the statutory benefits.

In view of what has been noticed above, order dated 16.5.2013 of the Adjudicating Authority is hereby set aside and the matter is remitted back to the Adjudicating Authority for determining the same afresh.

Parties are directed to appear before the court below on 21.12.2015. All the appeals stand allowed.

It is made clear that land owners shall also be entitled to take all possible pleas with regard to all other aspects before the appropriate Court.

**4.12.2015**  
Meenu

**(AMIT RAWAL)**  
**JUDGE**