

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

**1. CWP No.21414 of 2015
Date of decision: 27.07.2016**

Ram PalPetitioner
Versus
Union of India & ors.Respondents

2. CWP No.25304 of 2015

Surmukh Singh & ors.Petitioners
Versus
Union of India & ors.Respondents

3. CWP No.25189 of 2015

Hardeep Singh & anr.Petitioners
Versus
Union of India & ors.Respondents

4. CWP No.25209 of 2015

Ravikant & anr.Petitioners
Versus
Union of India & ors.Respondents

5. CWP No.25261 of 2015

Manjeet Kaur & ors.Petitioners
Versus
Union of India & ors.Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE DARSHAN SINGH**

Present: Mr. R.S.Budhwar, Advocate for the petitioner(s).

**Mr. Chetan Mittal, Sr. Advocate,
Assistant Solicitor General of India, with
Mr. Udit Garg, Advocate for respondents No.1 and 2.**

SURYA KANT, J (ORAL).

This order shall dispose of five writ petitions i.e. CWP Nos.21414, 25304, 25189, 25209 and 25261 of 2015 as the point in issue involved in these petitions is similar in nature. The facts are extracted from CWP No.21414 of 2015.

The grievance of the petitioner is against the order dated 24.04.2015 passed by the Arbitrator-cum-Additional Deputy Commissioner, Kurukshetra, under Section 3G(5) of the National Highway Act, 1956 (for short “the Act”), whereby the application for determination of market value of the acquired land has been dismissed on the plea of limitation.

The land of petitioner was admittedly acquired vide notification dated 30.06.2009 for widening of National Highway No.1 on the stretch of the land from kilometre 152/225 to kilometre 189/810 (Panipat to Jalandhar Section) in Kurukshetra District. The Land Acquisition Collector passed the award on 25.10.2010. The petitioner was dissatisfied with the amount of award. Meanwhile, Government of India issued notification dated 29.09.2011 appointing the Additional Deputy Commissioner as the Arbitrator under Section 3G(5) of the Act for determination of the market value of the acquired land.

The petitioner is said to have filed his reference for enhancement of compensation and since it was not forwarded to the Arbitrator for adjudication, he and some other affected land owners approached this Court by way of CWP No.9484 of 2014, which was disposed of with a direction to the Additional Deputy Commissioner-cum-Arbitrator to take up the references and decide the same within a period of

four months.

It, however, appears that no reference was allegedly filed by the petitioner and other land owners and no such claim was pending consideration before the Arbitrator. The petitioner meanwhile filed a fresh reference along with application for condonation of delay, which has been rejected vide impugned order dated 24.04.2015.

We have heard learned counsel for the petitioner as well as Mr. Chetan Mittal, Sr. Advocate, Assistant Solicitor General of India, with Mr. Udit Garg, Advocate for respondents No.1 and 2.

The question whether or not the petitioner and other land owners had earlier filed any reference, is a question of fact, which can be determined by the Arbitrator after summoning the record, but the impugned order cannot sustain in law as it has been passed on the premise that this Court had permitted the petitioner to file a reference within four months and that the petitioner approached the Arbitrator after ten months. The direction issued by this Court, in this regard, has been misconstrued. What was directed by this Court was to decide the reference, if any, pending before the Arbitrator within a period of four months.

Similarly, the plea taken by the petitioner that there is no limitation prescribed for filing a reference under Section 3G(5) so as to enable the Arbitrator to determine the market value also merits consideration. If the law does not provide any maximum period to file such application, it may not be possible for the Arbitrator to reject the application on the ground of limitation though inordinate delay in seeking any legal remedy can have its own adverse affect on the legitimate rights.

For the reasons afore-stated, we allow this writ petition in part; the impugned order passed by the Additional Deputy Commissioner is set aside and the matter is remitted to the said Authority to call for the records and re-determine the maintainability of the reference filed by the petitioner and other affected land owners in accordance with law. If it is found that their reference is maintainable, the Arbitrator is further directed to decide the same on merits and determine the market value of the acquired land. It shall be appreciated if the matter is adjudicated within a period of six months from the date of receipt of copy of this order.

(SURYA KANT)
JUDGE

July 27, 2016
ps

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No