

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.21857 of 2016.

Date of Decision: October 21, 2016

Kesar @ Kesar Pal

.....Petitioner

versus

National Highway Authority of India and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Sanjeev Kumar Panwar, Advocate, for the petitioner.

Mr.Rishi Kaushal, Advocate for NHAI.

Ms.Palika Monga, Deputy Advocate General, Haryana.

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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?

Surya Kant, J. (Oral)

Notice of motion.

On our asking, Mr.Rishi Kaushal, Advocate accepts notice on behalf of respondent Nos.1 & 2 and Ms.Palika Monga, Deputy Advocate General, Haryana, accepts notice on behalf of respondent No.3.

Let two copies of the writ petition be supplied to each above-named learned counsel during the course of day failing which this order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.

In view of the nature of order which we propose to pass, it is not necessary to seek any counter-reply from the respondents at this stage.

The petitioner is a resident of village Chhajjunagar, Tehsil and District Palwal. His land, as described in para No.2 of the writ petition, has been acquired by respondent No.1 under the National Highways Act, 1956, for widening and development of National Highway No.2 (Eastern Peripheral Express Way).

The Award was passed in the year 2015 by the Land Acquisition Collector/Competent Authority.

The petitioner's main grievance is that while assessing the compensation, the benefits of Sections 23, 28 and 34 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'), namely, solatium and interest have not been granted to him despite the fact that this Court in M/s Golden Iron and Steel Forgings versus Union of India and others, 2011 (4) RCR (Civil) 375, has categorically held that in the case of acquisition under the National Highways Act, 1956 also, these two statutory benefits are equally admissible to the affected land-owners.

The petitioner, besides submitting his claim-applications etc., is said to be running from pillar to post for the release of above-mentioned benefits which are said to have been withheld on the plea that there are no specific directions given by this Court in his favour.

We have heard learned counsel for the parties at some length and gone through the record.

The principles laid down by this Court in Golden Iron and Steel Forgings's case (supra), are undisputable. The fact that the benefit of solatium and interest has been extended to other similarly situated land-owners vide order dated 27.09.2012 in Bhag Singh's case (supra), can be hardly denied. In these circumstances, it appears imperative upon the

respondents to consider the petitioner's claim for the grant of solatium and interest in accordance with the decision of this Court in Golden Iron and Steel Forgings's case (supra).

While considering the claim of the petitioner in the light of the above-cited decision, the respondents shall be required to follow the recent directions dated 11.08.2016 issued by the Hon'ble Supreme Court in Civil Appeal No.10533 of 2011 (Sunita Mehra and another versus Union of India and others), to the following effect:-

“.....that the award of solatium and interest on solatium should be made effective only to proceedings pending on the date of the High Court order in Golden Iron & Steel Forgings vs. Union of India and others, i.e. 28.03.2008. Concluded cases should not be opened. As for future proceedings, the position would be covered by the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (came into force on 01.01.2014), which Act has been made applicable to acquisitions under the National Highways Act, 1956 by virtue of notification/order issued under the provisions of the Act of 2013.

With the aforesaid modification and clarification in the order of the High Court, these civil appeals are disposed of....”

The writ petition is accordingly disposed of in the following terms:-

- (i) The petitioner may apply to the Competent Authority-cum-Land Acquisition Collector within a period of one month for the grant of aforesaid benefits;
- (ii) The said Competent Authority will issue notice and call for the records/reply from the National Highway

Authority of India;

- (iii) The Competent Authority shall thereafter determine the petitioner's claim for the aforesaid benefits, especially in view of the decisions of this Court and the Hon'ble Supreme Court, cited above;
- (iv) If the petitioner is found entitled to, a self speaking supplementary Award to this effect shall be passed within a period of four months from the date of filing of the application;
- (v) The National Highways Authority of India is directed to deposit the amount payable in terms of the supplementary award, in interest-bearing fixed deposit account(s) in any nationalized bank which shall be disbursed subject to attaining finality of the litigation in the Golden Iron and Steel Forgings's case (supra).

The writ petition stands disposed of accordingly.

[SURYA KANT]
JUDGE

October 21, 2016
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[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No