

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

1. FAO No.3458 of 2012 (O&M)
Date of decision : 08.02.2016

Bhupinder Singh and others

...Appellants

Versus

Union of India and ors.

...Respondents

2. FAO No.4374 of 2012 (O&M)
Date of decision : 08.02.2016

Saminder Pal Singh

...Appellant

Versus

Union of India and ors.

...Respondents

3. FAO No.4375 of 2012 (O&M)
Date of decision : 08.02.2016

Kulwinder Kaur

...Appellant

Versus

Union of India and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see
judgment ?

2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. K.S. Cheema, Advocate for appellants.

Mr. Gunjan Rishi, Advocate for respondent-NHAI.

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of three appeals bearing FAO No.3458 of 2012, titled as Bhupinder Singh and others Versus Union of India and ors., FAO No.4374 of 2012 titled as Saminder Pal Singh Versus Union of India and ors., & FAO No.4375 of 2012 titled as Kulwinder Kaur Versus Union of India and ors., filed at the instance of land owners whose land was acquired for the widening of the National Highway. Competent Authority assessed the amount of compensation, Union of India and National Highway filed application under Section 3(G)(5) of the National Highways Act (hereinafter to be referred as the Act) for reduction of the amount.

From the memo of parties of the application, it reveals that the landowners were not made party. The arbitrator reduced the amount. Having acquired the knowledge of the reduction of the amount, the landowners filed objection under Section 34 of the Act which has been dismissed being barred by law of limitation.

Mr. Cheema, learned counsel appearing on behalf of the appellants-landowners submits that award lacks compliance of Sub-Section 5 of Section 31 of 1996 Act and the Courts below ought not to have dismissed the objections being barred by law of limitation, in essence, were

within the period of limitation from the date of knowledge of receipt of award.

Mr. Gunjan Rishi, learned counsel appearing on behalf of respondent-NHAI submits that objections were not falling within the realm of Section 34 of 1996 Act and in case, the Arbitrator had not conveyed the award to them, no cause of action has accrued to file objection and the objections were premature.

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

The memo of parties of the application filed before the Arbitrator seeking reduction of the amount does not reveal the name of the appellants. Same is reproduced hereinbelow:-

*“1. Union of India, Deptt. of Road Transport & Highways
2. Project Director, National Highways Authority of India
PIU, Jalandhar.*

Versus

*Competent Authority-cum-Sub Divisional Magistrate
Dasuya and ors.”*

The reduction of the amount at the back of the landowners is not sustainable in the eyes of law. Every person has a right to be heard and present his case, on acquiring the knowledge of such award, landowners filed objections. The Objecting Court remained oblivious of the aforementioned fact and dismissed the objections by invoking Sub-Section 3 of Section 34 of 1996 Act. It would be a futile exercise in remanding back the matter to the Objecting Court as award of the Arbitrator sans compliance of principles of natural justice, much less, provision of 1996 Act.

Accordingly, the award and the order dated 03.01.2012 of the Objecting Court are hereby set aside. The matter is remitted back to the Arbitrator for consideration of the matter after giving opportunity to rebut the averments of the National Highway for seeking reduction of the amount of compensation as assessed by the competent authority and to decide the case in accordance with law.

Parties or their counsel are directed to appear before the Arbitrator appointed by the concerned Department on 10.03.2016.

Appeals are disposed of.

08.02.2016

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**(AMIT RAWAL)
JUDGE**