

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of decision : 30.03.2016

1.

FAO-3537-2014

Union of India and another

... Appellants

Versus

Hari Karishan and others

... Respondents

2.

FAO-3672-2015

Government of India and another

... Appellants

Versus

Dilawar Singh and others

... Respondents

3.

FAO-5920-2013(O&M)

Union of India and another

... Appellants

Versus

Smt.Kaushila Devi and others

... Respondents

4.

FAO-8019-2015(O&M)

Union of India and another

... Appellants

Versus

Dhian Singh and another

... Respondents

5.

FAO-8491-2015(O&M)

Union of India and another

... Appellants

Versus

Dinesh Chander and another

... Respondents

6.

FAO-8497-2015(O&M)

Union of India and another

... Appellants

Versus

Harbhajan Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. R. S.Madan, Advocate
for the appellants.

Mr. S. S. Narula, Advocate
for the appellants (in FAO-3672-2015).

Mr.Satbir Rathore, Advocate
for respondent No.1 (in FAO-3537-2014)
& for respondents No.1 to 3 (in FAO-3672-2015).

Mr.Amandeep Soni, Advocate
for respondents No.2 to 6 (in FAO-5920-2013).

Mr. Rohiteshwar Singh, Advocate
for Mr.Vinod Kumar, Advocate
for respondent No.1 (in FAO-8491-2015).

Mr. Rohiteshwar Singh, Advocate
for respondent No.1 (in FAO-8019 & 8497-2015).

AMIT RAWAL, J.(ORAL)

This order of mine shall dispose of the appeals bearing FAO-3537-2014, FAO-3672-2015, FAO-5920-2013, FAO-8019-2015, FAO-8491-2015 and FAO-8497-2015 filed at the instance of the Union of India.

The notification under Section 3-A of the National Highways Act, 1956 for widening of the National Highway No.1-A from Jalandhar to Pathankot was promulgated on 24.12.2004. The acquisition of land in the present case is in respect of village Jandwal. The competent authority assessed the compensation @ ₹ 7562/- per marla for chahi agricultural land,

`7581/- & `7532/- per marla for Chahi land and ₹33,000/- per marla for abadi land and ₹44,000/- per marla for commercial land.

Aggrieved against the aforementioned finding rendered by the competent Authority, the land owner(s) sought resolution of dispute as per the provisions of the National Highway Act, 1956 by referring the matter to the Arbitrator. The Arbitrator by taking into consideration various factors and evidence, assessed amount for Abadi land is ₹1 lac per marla and for Chahi land, it is ₹65,000/- per marla, for commercial land between ₹44,000/- to ₹1,50,000/-. The Arbitrator also awarded compensation vis-a-vis severance of land, loss of income to the tune of ₹1 lac each. In some cases, Arbitrator assessed the compensation with regard to demolition of structure @ ₹400/- per square ft. and shifting of malba @ ₹10,000/- lump sum.

Mr. R. S. Madan & Mr. S. S. Narula, learned counsel appearing on behalf of the Union of India submit that the land owners have failed to place on record any documentary evidence i.e. sale deed. No report of surveyor for assessment has been brought on record enabling the Arbitrator to assess the amount of compensation. Therefore, in view of the settled law, the Arbitrator cannot increase the amount of compensation by taking into consideration the rate of Collector. The Arbitrator erroneously also granted statutory benefits under Sections 34 and 23(1-A) of the Land Acquisition (Amendment) Act, 1894 which is not permissible in view of law laid down in *M/s Golden Iron and Steel Forging Vs. Union of India and others, 2011 (4) RCR (Civil) 375*.

Learned counsel appearing on behalf of the land owners

submits that Union of India did not contest the matter before the Arbitrator much less any documentary evidence or any counter affidavit which has been noticed by the Arbitrator. The Arbitrator by inspecting the spot and taking into consideration the market value enhanced the compensation by applying the cut of 50% passed the award which is fair, legal and justified and as the amount of compensation is not on higher side. The entire circumstances have also been taken into consideration, National Highway had obtained 38 adjournments and did not contest the case and prays for dismissal of the appeal.

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

The assessment arrived by the Arbitrator by taking into consideration calculations and by applying cut of 50% of the market value of the land acquired on G.T. Road as per revenue authority in village Jandwal was ₹1 to 2 lacs and assessment of the compensation of land is justified, fair and reasonable. The Arbitrator has also taken into consideration the collector rate in village Fattu Chak, District Kapurthala which has attained finality. The award of the Arbitrator vis-a-vis assessment made in regard to commercial land is upheld. However, award of the Arbitrator granting benefits under Section 34 and 23(1-A) of the Land Acquisition (Amendment) Act 1984 is not permissible in view of judgment rendered by the Division Bench of this Court in *M/s Golden Iron and Steel Forging Vs. Union of India and others, 2011(4) RCR (Civil) 375*, whereas land owners is entitled to benefits under Sections 23(2) and 28 of the Land Acquisition (Amendment) Act 1984. Accordingly, the award of the

arbitrator qua the awarding of solatium is modified and vis-a-vis amount of compensation is upheld. With the aforesaid observations, the appeals are disposed of and the award is modified in the abovesaid terms.

(AMIT RAWAL)
JUDGE

March 30, 2016.
Davinder Kumar