

FAO No. 3002 of 2015 (O&M)

**IN THE HIGH COURT OF PUNJAB & HARYANA,
CHANDIGARH**

**FAO No. 3002 of 2015 (O&M)
Date of decision : May 28, 2016**

National Highways Authority of India

..... Appellant

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R. S. Madan, Advocate
for the appellant.

Mr. Sher Singh Rathore, Advocate and
Mr. Naresh Kaushal, Advocate
for respondent No.4 in FAO No. 3423 of 2015.
for respondent Nos. 4 and 5 in FAO No. 3424 of 2015
for respondent Nos. 4 to 7 in FAO No. 3427 of 2015
for respondent Nos. 4 to 8 in FAO No. 3428 of 2015
for respondent No. 4 in FAO No. 3429 of 2015
for respondent No.11 in FAO No. 3538 of 2015
for respondent Nos. 4 &5 in FAO No. 3426 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 32 FAOs bearing No. 3002, 3003, 3007, 3009, 3421 to 3430, 3458 to 3468, 3536 to 3539, 3608, 5869 and 3070 of 2015 pertaining to the acquisition of land situated in Village Hardonemoh, Hardo Haripur, Kotla Nihang, Bari Jhakhian, Malikpur, Behrampur, Thali, Bhaowal, Singh, Fatehpur Bunga, Matheri, Prithipur situated in Rupnagar for widening of the National Highway No.21 (New NH-21).

The appeals are at the instance of the National Highway challenging the impugned award rendered by the Arbitrator on following grounds:-

i) In few cases the land owners have not lead evidence with regard to the damages claiming severance charges yet enormous amount of compensation has been granted. In FAO No. 3536 of 2015 whereby while discussing severance charges assessed compensation to the tune of ₹25,000/- but later on granted relief to ₹2.5 lacs and in other cases severance charges are varying from ₹1 lac to ₹4 lacs.

ii) The arbitrator has awarded enormous amount of compensation by allowing loss of business relying upon the evaluation.

In certain cases even while determining compensation the issue with regard to loss of business the finding has been rendered that no evidence has been lead on behalf of the claimants but yet awarded compensation on these grounds. Reference is made to FAO Nos. 3002, 3007, 3009, 3070, 3468 of 2015.

As regards the enhancement of compensation, this Court has already had an occasion to award compensation by upholding the conclusion arrived at by the arbitrator in bunch of cases and lead case is FAO No. 5563 of 2013 decided on 15.1.2016. Copy thereof has been handed over to this Court whereby award of the arbitrator viz-a-viz the enhancement of compensation has been upheld. The factum of disposal of FAO No. 5563 of 2013 regarding upholding of the compensation by this Court has not been disputed by learned counsel representing the land owners. Accordingly the award of the arbitrator with regard to enhancement of compensation by granting interest @ 9% , 15% and 18% in case the compensation is not deposited or paid within the time line is hereby upheld.

As regards the loss of business, I am of the view that once there is a categoric finding that no evidence has been lead, the arbitrator could not have awarded compensation on account of loss of business and thus has fallen in error in awarding compensation.

Accordingly, compensation qua element of loss of business is set aside.

As regards awarding of severance charges particularly in FAO Nos. 3003, 3070, 3422, 3458, 3461 of 2015, in support of his arguments Mr. R. S. Madan, has relied upon the judgment rendered by a Single Bench of this Court in Neki Ram and others Vs. State of Haryana and another (2004) 137 PLR 391 to contend that claim of damages per se cannot be granted until and unless the evidence is lead. Per contra learned counsel appearing on behalf of the land owners submit that the compensation in all the aforementioned appeals under the head severance is not too high, giving alleged cause of action enabling the National Highway to challenge the same.

I have gone through the award of the arbitrator and reasoning assigned for granting the compensation on account of severance, of the view that severance ranging from ₹1 lac to ₹4 lac is not high as it is a natural corollary that owing to acquisition of the land owners are deprived of the utilization of land and accordingly the compensation awarded by the arbitrator in the aforementioned appeals is hereby affirmed.

As regards the compensation to the tune of ₹2.5 lacs in FAO No. 3536 of 2015 *ibid* once the arbitrator had arrived at a conclusion and determined the same in terms of money to the tune of

₹25,000/- did not assign any reason yet increased the same while granting the relief to the tune of ₹2.5 lacs, thus, in my view the compensation on account of severance charges to the tune of ₹2.5 lacs is hereby set aside and of ₹25,000/- is upheld.

The awards in terms of the order referred to above qua enhancement of compensation with regard to nature of land is upheld.

With the aforementioned modifications the appeals stand partly allowed.

This Court has been apprised of the fact that in certain matters an apprehension or objections are raised qua implementation of award by Executing Courts in the State of Punjab and Haryana. There is no dispute that the award passed by the Arbitrator or that of competent authority under National Highways Act is a decree and is executable in accordance with law.

Copy of this order be sent to the all concerned District and Sessions Judges in the States of Punjab and Haryana for compliance.

(AMIT RAWAL)
JUDGE

May 28 , 2016
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