

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

Date of Decision: May 05, 2016

1. **FAO No.5305 of 2013 (O&M)**

Project Director, National Highway Authority of India

...Appellant

Versus

Ajit Singh & others

...Respondents

2. **FAO No.5306 of 2013 (O&M)**

Union of India, New Delhi & another

...Appellants

Versus

Roshan Singh & others

...Respondents

3. **FAO No.5307 of 2013 (O&M)**

Union of India & another

...Appellants

Versus

Mohinder Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Gunjan Rishi, Advocate,
for the appellants in all the three appeals.

Mr.Manoj Dhiman, Advocate for
Mr.Vishal Aggarwal, Advocate,
for respondent Nos.1 to 4 in FAO No.5305 of 2013.

Mr.Puneet Jindal, Senior Advocate with
Ms.Sakshi, Advocate,
for respondent Nos.1 to 6 in FAO No.5306 of 2013.
Mr.A.S.Gill, Advocate,
for respondent No.1 in FAO No.5307 of 2013.

AMIT RAWAL, J. (Oral)

CM Nos.22656-CII, 22665-CII & 22672-CII of 2013 in
FAO Nos.5305, 5306 & 5307 of 2013

For the reasons mentioned in the applications, which are supported by affidavits, delay of 60 days in filing the appeals is condoned.

Applications stand disposed of.

FAO Nos.5305, 5306 & 5307 of 2013

By this order, I intend to dispose of three F.A.O. Nos.5305, 5306 and 5307 of 2013 as the common questions of law and facts involved in all the three appeals are the same. The facts are being taken from FAO No.5305 of 2013.

Appellant-National Highway is aggrieved of the dismissal of the objections seeking setting-aside of the award dated 25.7.2011 passed in Arbitration Case No.149 of 2010 by the Arbitrator-cum-Commissioner, Jalandhar Division, Jalandhar.

It has been contended by Mr.Gunjan Rishi, learned counsel for the appellants that the Arbitrator, while passing the award, held that the price of the land has been enhanced manifold and in the previous award, the compensation was settled at lesser rate, i.e., @ ₹1551/- per marla, whereas now it has been enhanced to ₹50,000/- per marla. He further submits that the award is illegal, perverse and not tenable under law as the Arbitrator failed to consider the provisions of Section 33 of the National Highway Act, 1956 and the award contains the decision on matters beyond the scope of

submission of the arbitration. There is no basis for arriving at a compensation of ₹50,000/- per marla. The Arbitrator ignored the provisions of Section 143 of the PUDA Act, 1995 and Section 3 of the Punjab Scheduled Roads and Controlled Areas (Restriction of Un-Regulated Development Act), 1963 and, thus, urges this Court to set-aside the award.

The learned counsel appearing on behalf of the respondents submit that the land has been acquired for widening the Jalandhar-Pathankot Section of National Highway No.1A. The acquisition in the present case was in respect of Villages Kounterpur, Tehsil Pathankot, District Gurdaspur, Bhangla, Tehsil Mukerian, District Hoshiarpur and Laroya, Tehsil and District Jalandhar. The Arbitrator had visited the spot with the revenue officials on 15.5.2009. Village Kounterpur, Tehsil Pathankot, District Gurdaspur is 18 kms. away from Pathankot. The Arbitrator found that the market value of the land was assessed from revenue officials as well as from village elders and awarded the compensation as mentioned in the award. The Arbitrator has also taken into consideration the current value of the land acquired as ₹1,00,000/- to ₹2,00,000/- per marla for commercial property, like shops on the GT Road as acquired in Village Kounterpur and Collector rate was also enhanced by that time and by applying 50% current value, assessed the compensation @ ₹50,000/-, ₹80,000/- and ₹1,50,000/-.

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

The view expressed by the Arbitrator is perfect and justified. This Court has already upheld the award of the Arbitrator in respect of Villages Kounterpur and Loraya as per the decisions rendered in **FAO**

No.8685 of 2014 (Government of India and another Versus Amarjit Singh and others), decided on 8.2.2016 and **FAO No.5973 of 2013 (Union of India and another Versus Kuldeep Singh and others)**, decided on 30.3.2016.

Once the purpose for acquisition of the land is for widening of the National Highway, i.e., from Jalandhar to Pathankot, the Arbitrator did not remain oblivious of the fact that in respect of the other area, compensation has already been enhanced and by conducting the spot inspection and as well as assessing the market value applied 50% cut off and assessed the compensation, as noticed above. I am of the view that the findings rendered by the Arbitrator are perfect and legal and the objections were not within the realm of Section 34 of the Arbitration and Conciliation Act, 1996, enabling the Objecting Court to accept the same.

As regards the benefit of solatium is concerned, the Arbitrator has granted 9% interest in case the payment is paid within 90 days, failing which it would entail interest @ 15% per annum beyond 90 days and beyond 6 months @ 18% . In my view, granting of interest is also not against the provisions of sub-section (7) of Section 31 of 1996 Act. No other benefit as per Sections 34 and 23(1-A) of the Land Acquisition (Amendment) Act, 1984.

In view of the dictum laid down by the Division Bench of this Court in **M/s Golden Iron and Steel Forging Versus Union of India and others, 2011(4) R.C.R. (Civil) 375**, the land owners would be entitled to benefits of Sections 23(2) and 28 of Land Acquisition (Amendment) Act, 1984.

Accordingly, the award of the Arbitrator is modified qua

granting of solatium only. Rest of the award granting enhancement is upheld.

The appeals stand disposed of in the aforementioned terms.

May 05, 2016
ramesh

(AMIT RAWAL)
JUDGE