220

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **FAO-4690 of 2014 (O&M)**
Date of decision: 17.11.2016

Government of India and another

... Appellant(s)

Versus

Sukhdev Singh and others

... Respondent(s)

2. **FAO-4688-2014 (O&M)**

Union of India and another

... Appellant(s)

Versus

Kuldip Singh and others ... Respondent(s)

3. **FAO-4689-2014 (O&M)**

Government of India and another

... Appellant(s)

Versus

Ram Piari and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. R.S. Madan, Advocate
for the appellant(s).

Mr. Rohiteshwar Singh, Advocate
for respondents
(in FAO-4689-2014 and 4690-2014)

Mr. Vijay Rana, Advocate
for respondent No.1
(in FAO-4688-2014)

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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?

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of three appeals bearing ***FAO No.4690 of 2014 (O&M)*** titled as ***"Government of India and another V/s Sukhdev Singh and others "***, ***FAO No.4688 of 2014 (O&M)*** titled as ***"Union of India and another V/s Kuldip Singh and others "*** and ***FAO No.4689 of 2014 (O&M)*** titled as ***"Government of India and another V/s Ram Piari and others ",*** filed at the behest of the appellant(s)-Government of India against the impugned order, whereby the objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'Act') seeking setting aside of the Award have been dismissed/partly allowed.

The notification under Section 3-A of the National Highway Act for widening of the National Highway under the National Highway Act, 1956 was promulgated on 24.12.2004. The competent authority assessed the compensation at the rate of ₹ 50,000/- per marla for shop, ₹ 29,544/- per marla for abadi land and ₹ 6,875/- per marla for tubewell. Since, the landowners were aggrieved of the aforementioned amount of compensation, the landowner(s) preferred a reference seeking resolution of dispute through intervention of the Arbitrator in view of the statutory provisions of the Act. Accordingly, the matter was referred to the Arbitrator and the Arbitrator has enhanced the amount of compensation for all pieces of land at the flat rate of ₹ 1,50,000/- per marla and severance charges of ₹ 1,00,000/- lump sum.

Mr. R.S. Madan, learned counsel appearing on behalf of the appellants submits that the claims were not liable to be given to the land owners as no evidence has been led to establish the claim.

In essence, the matter was remanded back to the Arbitrator and despite having availed number of opportunities, the land owners did not place on record any fresh evidence. No change has been brought on record, much less, there is no independent evidence with regard to the structure qua commercial and residential or loss of business. Neither the account books nor the certificate of the Chartered Accountant has been placed on record to support the claim. The interest is also not in accordance with *ratio decidendi* culled out by the 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.*** therefore, award is liable to be set aside. The Objecting Court has also not taken into consideration all these factors, thus objections are falling within the provisions of Section 34 of the Act.

Mr. Rohiteshwar and Mr. Vijay Rana, learned counsel appearing on behalf of land owners submits that the evidence already brought on record was sufficient for the arbitrator to grant the aforementioned relief and the same has been reflected and quoted in the award, i.e. jamabandi for the year 2003-2004, Collector rate for the year 2003-2004, @ ₹ 50,000/- per marla and for the year 2007-2008 @ ₹ 1.5 lac per marla and constructed house @ ₹ 1.3 lac, site plan showing the residential houses, commercial shops of various land owners and actual payment receipt, *akshajra*. The award is perfectly legal and justified and the objections were not falling within the realm of Section 34 of the Act, thus, the same have rightly been rejected. The scope of interference under Section 34 of the Act is very limited. This Court cannot interfere the findings until and unless the award suffers from patent illegality. The Court cannot re-appreciate the evidence even it has found a different opinion.

I have heard learned counsel for the parties and appraised the paper-book and of the view that there is no force and merit in the submission of Mr. R.S. Madan, viz-a-viz awarding of the compensation with regard to the shifting of structure, compulsory change of residence, loss of business and the same is in accordance with evidence as noticed above i.e. jamabandi, site plan and collector rate. There is a marginal increase of compensation. The acquisition of the area in the vicinity particularly land between Dasua and Tanda Town. It would be appropriate to re-produce the relevant portion of the award which reads as under:-

> "The petitioner submitted in the main application that his 5K-3M land in different Khasra Nos. have been acquired by NHA-1. The land is situated on the G.T. Road of village Aema Manget. They have been paid for land @ ₹ 50,000/- per marla for land. Residential house paid @ ₹ 29,544/- per marla and well @ ₹ 6875/- per marla. The applicant Sukhdev Singh has been paid ₹ 8,62,611/- and the applicant Satpal has been paid ₹ 8,15,389/- as compensation on account of the cost of the land. The applicant Sukhdev Singh has been paid ₹ 7,89,900/- and the applicant Satpal has been paid ₹ 2,67,870/- as compensation on account of the cost of the structure besides the cost of the land.
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> Applicant submitted that he have incurred construction cost of ₹ 1100/- per sq. ft. He has lost earning from the rented shops. He demand ₹ 1100/- per sq. ft. for super structure, ₹ 2.00 lac per marla for shops, ₹ 1.70 lacs per marla for

residential house, ₹ 50,000/- for shifting charges, 30% solatium and 12% interest. The NHA-1 agreed to acquisition of the following land of the petitioner.

The NHA-1 in its written reply submitted that land comprised in khasra No.24//26 (0-11), (0-2 Gair Mumkin shops, 0-6 Abadi, 0-3 Well) 24// 14/4 (0-3), 15/2/1 (0-12), 16/2/1 (2-4) (Gair Mumkin shops), 24//17/1 (1-3) (Gair Mumkin shops and abadi) situated at village Aema Manget, Tehsil Mukerian, District Hoshiarpur has been acquired. The applicants had 33/99 share in land comprised in Khasra No.24//26 and 620/1863 share in Khasra No.24//14/4, 15/2/1, 16/2/1 and 138 share in khasra No.24//17/1. The Gair Mumkin shops land has been assessed @ ₹ 50,000/- per marla, Abadi land has been assessed @ ₹ 29,544/- per marla and well has been assessed @ ₹ 6875/- per marla. Structure on the standing land is separately assessed. The land is acquired under National Highway Act, 1956 and not under Land Acquisition Act, 1894 so solatium and interest and demand is not applicable. The NHA-1 replied that the petitioner is not entitled for any enhancement of rates. He also denied the claim of solatium and interest demanded by the petitioner."

However, there is a force and merit in the submission of Mr. Madan, viz-a-viz, awarding of interest which is not in accordance with ratio *decidendi* culled out by the 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.*** In my view, the land owners are not entitled to interest as per the provisions of Section 23 (2) and 28 of Land Acquisition Act, 1894.

Accordingly, the award of the arbitrator is modified to the aforementioned extent. The appeals are partly allowed. Rest of findings are upheld. There shall be no modification in the grant of solatium @ 30%.

(AMIT RAWAL)
JUDGE

November 17, 2016

Ramandeep Singh / Rajeev Purohit

Whether speaking / reasoned Yes / No

Whether Reportable Yes / No