

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 4871 of 2014(O&M)
Date of decision : February 10, 2016

Satpal

..... Appellant

Versus

Govt.of India and others

..... Respondents

FAO No. 5223 of 2014(O&M)

Joginder Nath

..... Appellant

Versus

Govt.of India and others

..... Respondents

FAO No. 8022 of 2014(O&M)

Sadhu Ram

..... Appellant

Versus

Govt.of India and others

..... Respondents

FAO No. 491 of 2015(O&M)

Sohan Singh (deceased) through L.Rs

..... Appellant

Versus

Govt.of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:-

Mr. Sarbir Rathore , Advocate
for the appellants in FAO No. 4871, 5223 &
8022 of 2014.

Mr. Deepak Verma, Advocate for
Mr. Paramjit Rajput, Advocate
for the appellant in FAO No. 491 of 2015.

Mr. D. K. Prajapati, Advocate
for National Highway Authority of India.

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).

CM Nos. 13696, 14785 & 21560-CII of 2014 in FAO Nos. 4871, 5223,8022 of 2014

These are applications under Section 5 of the Limitation Act seeking condonation of delay in filing the appeals.

For the reasons stated in the applications, which are duly supported by an affidavit, delay of 47 days in filing the appeals is condoned.

The applications stand disposed of.

CM Nos.21559-CII of 2014 in FAO No. 8022 of 2014& CM No. 1385-II of 2015 in FAO No. 491 of 2015

These are applications under Section 151 CPC seeking condonation of delay in refiling the appeals.

For the reasons stated in the applications, which are duly supported by an affidavit, delay of 24 and 125 days respectively in refiling the appeals is condoned.

The application stands disposed of.

FAO Nos. 4871, 5223 & 8022 of 2014 and FAO No. 491 of 2015

This order of mine shall dispose of four appeals bearing FAO Nos. 4871, 5223 & 8022 of 2014 and FAO No. 491 of 2015 filed at the instance of the land owners who are aggrieved of

the order passed by the objecting court whereby objections filed at the instance of the National Highways Authority of India under Section 34 of the Arbitration and Conciliation Act, 1996 have been accepted. In essence, the interest awarded by the arbitrator @ of 9% per annum for the date of taking possession till payment and in case of delay of payment of enhanced price beyond 90 days, the interest would be 15% per annum and thereafter 18% on the enhanced amount if the payment is made after six months of announcement of the award, has been set aside.

Mr. Sarbir Rathore and Mr. Deepak Verma, learned counsel appearing on behalf of the appellants submits that the finding rendered by the objecting court is not sustainable as the interest was within the provisions of Section 31(7) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act'). The arbitrator ordered payment of interest @ 9% per annum from the date of taking possession till payment and in case of delay of payment of enhanced price beyond 90 days, the interest would be 15% per annum and thereafter 18% on the enhanced amount if the payment is made after six months of announcement of the award

The objections were not falling within the realm and purview of Section 34 of the Act.

Mr. D. K. Prajapati, learned counsel appearing on behalf of the National Highways Authority of India submits that awarding of the aforementioned interest basically tantamounts to invoking provisions of Section 34 of the Land Acquisition Act, 1894, which is not applicable to the proceedings/acquisition of land

acquired by the National Highway Authority of India, much less the judgment of Hon'ble Division Bench of this Court in **M/s Golden Iron & Steel Forging Vs. UOI & others 2011 (4) RCR (Civil) 375** granted the benefit under Section 28 and 23(2) of the Act and prays for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book and am of the view that there is no substance in the plea of learned counsel for the respondents. The awarding of interest would not fall within the purview of Section 34 of the Land Acquisition Act but in essence, as per provisions of Section 31(7) of the Act, nothing prevented the respondents to comply the directions to avoid recurring interest by not depositing the amount within the aforementioned period of 90 days without there being right to challenge the same.

It is now a settled law that as to under what circumstances the award has to be interfered with. The question which has now been raised in the aforementioned appeal has already been answered by the Hon'ble Supreme Court in catena of judgments wherein it has been laid down that until and unless the award suffers from illegality as statutorily prescribed under Section 31 (3) of the Act, the same cannot be interfered with. In this context I intend to refer the judgments of Hon'ble Supreme Court in **Associate Builders Vs. Delhi Development Authority (2015) 3 SCC 49** and **Navodaya Mass Entertainment Ltd. J. M. Combines (2015) 5 SCC 698.** In the aforementioned judgment the Hon'ble Supreme Court had culled out the ratio decidendi by holding that until and unless

there is error apparent on the face of record or the arbitrator has not followed statutory legal position, it is only in these circumstances it would be justified interfering with the award. The High Court should not act as a Court of appeal and reappraise the material/evidence and embarked on a path by substitution in its own view. The Arbitrator has dealt with the dispute which was contemplated and was within the scope of it.

It is now a settled law that the Arbitrator is the sole judge of quality and quantity of the evidence before him and decide on the basis of the available evidence.

In my view, no error of law arise from the award. The award is perfect and justified and all the objections filed against the same were wholly misconceived.

In view of the above, the order of the objecting court is set aside. The award of the arbitrator is upheld.

The appeals stand allowed.

(AMIT RAWAL)
JUDGE

February 10 , 2016
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