

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

**F.A.O.No.225 of 2015 (O&M)**

**Date of Decision: January 13th, 2016**

**Union of India & another**

**...Appellants**

**Versus**

**Kamla Jain & 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.Raghujeet Singh Madan, Advocate,  
for the appellants.**

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**AMIT RAWAL, J.**

**Civil Misc.No.610-CII of 2016**

For the reasons mentioned in the application, which is supported by an affidavit, delay of 4 days in re-filing the appeal is condoned.

CM stands disposed of.

**F.A.O.No.225 of 2016**

The National Highway Authority of India is aggrieved of the order dated 27.8.2015, whereby the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short “1996 Act”) seeking setting-aside of the award dated 12.2.2011 passed by the Arbitrator-cum-Commissioner, Jalandhar Division, Jalandhar, have been dismissed.

Mr.R.S.Madan, learned counsel appearing on behalf of the appellants submits that the Arbitrator has not complied with the provisions of 1996 Act in not supplying copy of the award. The Arbitrator has wrongly and erroneously awarded the compensation of land @ ₹1.50 lacs per marla and enhanced the compensation for structure @ ₹500/- per square feet, whereas the land owners have adequately been compensated by making the payment of ₹99,055/- for the structure. The Arbitrator could not have granted interest @ 9% per annum, to be paid within 90 days from the announcement of the award and if not paid within 90 days, interest @ 15% per annum would prevail and if the same is not made within six months, the interest @ 18% per annum would be charged. The Arbitrator did not have jurisdiction to grant such interest. Once the compensation of the land has been enhanced, the compensation on account of the loss of business and shifting charges @ ₹25,000/- ought not to have been granted. He further submits that the provisions of Section 143 of the PUDA Act, 1995 and Section 3 of the Punjab Scheduled Roads and Controlled Area Restriction of Un-Registered Development Act, 1963 prohibit raising of construction within 10 meters adjoining land of municipal area, upto 30 meters adjoining land in the rural areas and 100 meters abutting the National Highways/Scheduled Roads. The certified copy of the award was applied on 24.6.2014 and delivered on the same date and the petition was filed on 5.9.2014, therefore, the limitation would start from the date of receipt of the certified copy of the order.

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

No explanation, much less reasonable explanation had come

forth before the Objecting Court for seeking condonation of delay in filing the objections on 5.9.2014, in essence, the explanation from the date of the passing of the award, i.e., 12.2.2011 till applying for the certified copy on 24.6.2014.

On perusal of the award, it reveals that the appellants were duly represented through the representative and, therefore, they cannot be deemed to have been remained oblivious of the findings given by the Arbitrator. It appears that the approach of the offices of the appellants is very callous and tardy in not ascertaining the factum of the arbitration proceedings before the Arbitrator. Even in the present appeal, no explanation has come forth in not applying the certified copy then and there and the cause which prevented in applying after lapse of almost three years and few months. The provisions of sub-section (3) of Section 34 of 1996 Act provide limitation of 90 + 30 days and rightly so, objections were not within time frame. Even otherwise, on merits the award of the Arbitrator is based upon the appreciation of the evidence brought on record. The spot was also visited by the Arbitrator. The Arbitrator noticed the fact that the NHAI has paid 5 times than Collector rate in all cases of Kapurthala District and accordingly amended the compensation. The enhancement had been made keeping in view the spirit of the order passed by the Hon'ble Supreme Court and this Court, much less, the National Highway had taken 23 adjournments for filing reply spanning over a period of two years, but no evidence to rebut the calculations arrived at by the Arbitrator has been produced on record.

Keeping in view of the aforementioned facts, I do not find any illegality and perversity in the order and the award. The same are

accordingly upheld. There is no merit in the appeal. The same is accordingly dismissed.

**January 13<sup>th</sup>, 2016**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**