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

**Date of decision : 03.02.2016
FAO-5098-2014 (O&M)**

Balbir Singh and another

...Appellants

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sanjay Majithia, Senior Advocate with
Mr. Rajesh Kumar Bhagal, Advocate,
Mr. Satbir Rathore, Advocate
Mr. Deepak Jain, Advocate,
Mr. Arun Bansal, Advocate and
Mr. Kanhiya Lal, Soni, Advocate,
Mr. Arun Takhi, Advocate
for the appellant(s)-landowners.

Mr. S.S. Narula, Advocate
for respondent No. 1 & 2 (In FAO-5098-2014)

Mr. R.S. Madan, Advocate
for respondent No. 1 & 2
(In all appeals except FAO-5098-2014.)

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-21357-CII-2014 IN
FAO-7907-2014

This is an application for impleading the LR's of the
appellant-Smt. Satya Devi.

For the reasons stated in the application, duly supported
by an affidavit, the same is allowed and the LR's of the appellant

Smt. Satya Devi are brought on record. Amended memo of parties is also placed on record.

CM stands disposed of .

CM-21843-CII-2014 IN
FAO-8087-2014

This is an application for impleading the LR's of the appellant Jaswant Singh.

For the reasons stated in the application, duly supported by an affidavit, the same is allowed and the LR's of the appellant Jaswant Singh are brought on record. Amended memo of parties is also placed on record.

CM stands disposed of .

CM-28602-CII-2014 IN
FAO-10376-2014

This is an application for impleading the LR's of the appellant Tarsem Kaur.

For the reasons stated in the application, duly supported by an affidavit, the same is allowed and the LR's of the appellant Tarsem Kaur are brought on record. Amended memo of parties is also placed on record.

CM stands disposed of .

CM-25068-CII-2015 IN
FAO-7977-2015

For the reasons stated in the application which is duly supported by an affidavit, the same is allowed and the delay of 109 days in filing the appeal is condoned.

CM stands disposed of.

MAIN CASES

This order of mine shall dispose of the appeals bearing FAO-5098-2014 titled as "BALBIR SINGH & ANR V/S UNION OF INDIA & ORS", FAO-7907-2014 "SURINDER KUMAR AND ORS V/S UNION OF INDIA & ORS", FAO-8023-2014 titled as "BHAG SINGH AND ANR V/S UNION OF INDIA & ORS", FAO-8087-2014 titled as "JAGJIT SINGH V/S UNION OF INDIA & ORS" FAO-8091-2014 titled as "KRISHNA KUMARI V/S UNION OF INDIA AND ORS", FAO-8158-2014 titled as "KAMAL KRISHAN AND ANR V/S UNION OF INDIA & ORS", FAO-8420-2014 titled as "NIRMAL SINGH V/S UNION OF INDIA & ORS" FAO-8786-2014 titled as "SHEETAL KAUR & ORS V/S UNION OF INDIA & ORS" FAO-8904-2014 titled as "SWARN SINGH V/S UNION OF INDIA & ORS", FAO-9153-2014 titled as "TARLOCHAN SINGH V/S UNION OF INDIA & ORS", FAO-9252-2014 titled as "BHAI GHANAYA CHARITABLE TRUST V/S UNION OF INDIA & ORS", FAO-9652-2014 titled as "RAJINDER KAUR V/S UNION OF INDIA & ORS" FAO-9655-2014 titled as "SURJIT SINGH V/S UNION OF INDIA & ORS" FAO-9657-2014 titled as "DALJIT SINGH V/S UNION OF INDIA & ORS", FAO-9656-2014 titled as "GURMEET KAUR AND ANR V/S UNION OF INDIA & ORS", FAO-9675-2014 titled as "HARBHAJAN SINGH V/S UNION OF INDIA & ORS", FAO-10159-2014 titled as "SATPAL SINGH V/S UNION OF INDIA & ORS", FAO-10168-2014 titled as "BALWANT SINGH & ANR V/S UNION OF INDIA & ORS", FAO-10347-2014 titled as "SUKHWINDER SINGH

V/S UNION OF INDIA & ORS”, FAO-10376-2014 titled as “TEJ KAUR AND ORS V/S UNION OF INDIA & ORS”, FAO-9070-2014 titled as “SAINI'S COLD RETREADERS PVT LTD V/S UNION OF INDIA & ORS”, FAO-4230-2015 titled as “SAROOP SINGH AND ORS V/S UOI AND ORS”, FAO-4828-2015 titled as “AVTAR SINGH V/S UOI AND ORS” FAO-5708-2014 titled as “SURJIT SINGH V/S UNION OF INDIA & ORS”, and FAO-7977-2015 titled as “KAMLA DEVI V/S UNION OF INDIA AND ORS”, filed at the instance of the landowners seeking the setting aside of the Award of the Arbitrator and restoration of the assessment made by the competent authority. The landowners are with regarding to the issuance of Notification under Section 3A of the National Highways Act, whose land was acquired for widening of the National Highway.

Mr. Sanjay Majithia, Senior Advocate assisted by Mr. Rajesh K. Bhagal, Advocate, Mr. Satbir Rathore, Advocate, Mr. Deepak Jain, Advocate, Mr. Arun Bansal and Mr. Arun Takhi, Advocate, appearing on behalf of the appellant(s)-landowners submits that on the perusal of the assessment made by the competent authority, the rate assessed for commercial land was ₹ 2,50,000/- per marla and that of agriculture as ₹ 1,47,500/-. National Highway sought a reference before the Arbitrator and the Arbitrator without hearing the landowners reduced the amount of compensation as under:

1. For commercial : ₹ 1,60,000/- per marla
2. For agriculture : ₹ 1,00,000/- per marla.

Mr. Arun Bansal, learned counsel appearing on behalf of the landowners (in the appeals bearing FAO-8786-2014, FAO-8904-2014, FAO-9652-2014, FAO-9655-2014, FAO-9657-2014, FAO-9656-2014, FAO-9675-2014, FAO-10347-2014, FAO-10376-2014, FAO-4230-2015, FAO-4828-2015, FAO-5708-2014 and FAO-7977-2015), submits that the cases of the landowners are also similarly situated, inasmuch as that the National Highway while seeking the reference before the Arbitrator, sought the reduction of the amount of the compensation as assessed by the competent authority at the back of the landowners, the objections were filed under Section 34 of the 1996 Act which were erroneously held to be time barred. The landowners approached this Court and this Court had condoned the limitation and remanded back the matter to the Objecting Court. The Objecting Court has again upheld the order of the Arbitrator. He submits that the landowners have been prevented to lead evidence before the Arbitrator to ascertain the exact market value of the land as on the date of the Notification or around the date of the aforementioned notification. He submits that the matter should be remitted back to the Arbitrator by giving an opportunity to the landowners to lead evidence to show that the market value of the land was higher than one assessed by the competent authority.

Mr. S.S. Narula, Advocate and Mr. R.S. Madan, Advocate appearing on behalf of the Union of India, submits that the plea of Mr. Arun Bansal, Advocate is not sustainable for the reason that as per the provisions of sub-Section 5 of Section 3G of the National

Highway Act, the reference to the Arbitrator was not sought. They further submit that the objections were not falling within the purview of Section 34 of the 1996 Act and prays for dismissal of the appeals.

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

The competent authority, in its order dated 08.05.2007, assessed the compensation for agriculture land at the rate of ₹ 1,47,500/- per marla and that of commercial at the rate of ₹ 2,50,000/- per marla, whereas the Arbitrator without hearing the landowners reduced the amount of compensation for commercial from ₹ 2,50,000/- to ₹ 1,60,000/- per marla viz-a-viz the agriculture land from ₹ 1,47,000/- per marla to ₹ 1,00,000/- per marla.

It is a settled law that once the Competent Authority noticed the collector rate as ₹ 2,50,000/- for commercial and ₹ 1,47,500/- for agriculture land, there was no occasion for the Arbitrator to reduce it to ₹ 1,60,000/- for commercial and ₹ 1,00,000/- for agriculture. The aforementioned reason of mine is fortified by taking into consideration a judgment of the Hon'ble Supreme Court in **"Madishetti Bala Ramul (D) through LRs V/s The Land Acquisition Officer" 2007 (3) RCR (Civil) 455,** wherein it has been held that the amount of compensation awarded by the reference court shall not be less than the amount awarded by the Collector and in no circumstances the amount awarded by the Collector can be reduced.

I am not in agreement with the plea of Mr. Arun Bansal, Advocate viz-a-viz remanding back the matter before the Arbitrator for claiming of the compensation of the commercial land at the rate of ₹ 5,00,000/- per marla, for the reason that the landowners did not seek the reference of the dispute to the Arbitrator as per the provisions of Section 3G (5) of the National Highways Act, thus, it has no substance, much less, basis and the same is accordingly declined.

Keeping in view the aforementioned facts, the Award of the Arbitrator is hereby set aside and that of the competent authority is restored and the compensation, viz-a-viz the agriculture land shall be treated as ₹ 1,47,000/- per marla and for commercial as ₹ 2,50,000/- per marla as assessed by the competent authority for all the villages instead of different villages as ordered by the competent authority.

Accordingly, the appeals are allowed.

The landowners shall be entitled to all the statutory benefits as per the provisions of Sections 23 (2) and 28 of the Land Acquisition (Amendment) Act, 1984 in view of the judgment rendered by the Division Bench of this Court in **'M/s Golden Iron and Steel Forging V/s Union of Indian and others" 2011(4) RCR (Civil) 375.**

03.02.2016
yogesh

(AMIT RAWAL)
JUDGE