

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.2513 of 2016 (O&M)
Date of decision:03.05.2016

Union of India and another ... Appellants

Vs.

Kashmir Multani and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Ms. Jatinder Jit Kaur, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

National Highway is aggrieved of the dismissal of the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (in short "1996 Act") seeking setting aside of the Award passed by the Arbitrator in respect of the land situated in village Lameen, Tehsil Dasuya, District Hoshiarpur acquired for widening the National Highway between Jalandhar to Pathankot.

Ms. Jatinder Jit Kaur, learned counsel appearing on behalf of the appellants submits that in the absence of any documentary evidence or sale deed, much less, taking into consideration the collector rate, Arbitrator increased the rate of compensation manifold, whereas, the competent authority assessed the compensation at the rate of Rs.4612/- per marla and therefore,

Award of the Arbitrator is not sustainable in the eyes of law.

I have heard learned counsel for the appellants and appraised the paper book and of the view that Arbitrator has taken into consideration the decision arrived at in respect of same very Highway situated in Dasuya Sub Division ranging from Rs.62,500/- to Rs.2.5 lac per marla and by taking said criteria, assessed the compensation of Rs.1,25,000/- per marla. There is no force in the submissions of Ms. Jatinder Jit Kaur that value of the land situated in village Lameen is different than that of Dasuya, for, the land has been acquired for one purpose, i.e., for widening of National Highway. Once land owners had been deprived of utilization of land, there should be no discrimination vis-a-vis land situated in the different area, referred above, as purpose of acquiring the land is 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. Vs. 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.

In my view the award of the Arbitrator does not suffer from any illegality, in as much as, the Arbitrator who is expert has dealt with the matter and decided the claim of respective claimants to the parties to the *lis*.

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 arises from the award as well as order impugned. The award is perfect and justified.

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

(AMIT RAWAL)
JUDGE

May 03, 2016
savita