

**IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH**

**Date of decision : 30.03.2016**

**1.**

**FAO-5973-2013(O&M)**

Union of India and another

... Appellants

Versus

Kuldeep Singh and others

... Respondents

**2.**

**FAO-8003-2014(O&M)**

Union of India and another

... Appellants

Versus

Uttam Chand and others

... Respondents

**3.**

**FAO-9111-2014 (O&M)**

Union of India and another

... Appellants

Versus

Smt. Krishan Devi and others

... Respondents

**4.**

**FAO-10227-2014(O&M)**

Project Director, National Highways Authority of India

... Appellants

Versus

Amandeep Singh and others

... Respondents

5. **FAO-10300-2014(O&M)**

Union of India and another

... Appellants

Versus

Surinder Singh and others

... Respondents

6. **FAO-10311-2014(O&M)**

Union of India and another

... Appellants

Versus

Ashok Kumar and others

... Respondents

7. **FAO-3671-2015(O&M)**

Project Director, National Highways Authority of India

... Appellant

Versus

Swaran Singh and others

... Respondents

8. **FAO-6900-2015(O&M)**

Union of India and another

... Appellants

Versus

Nirmal Singh and others

... Respondents

**9.**

**FAO-6901-2015(O&M)**

Union of India and another

... Appellants

Versus

Pritam Dass and others

... Respondents

**10.**

**FAO-1466-2016(O&M)**

Union of India and another

... Appellants

Versus

Daljit Singh and others

... Respondents

***CORAM: HON'BLE MR. JUSTICE AMIT RAWAL***

Present: Mr. R. S.Madan, Advocate  
for the appellants (in all appeals except FAO-3671-2015 &  
FAO-1466-2016).

Ms.Jatinder Jit Kaur, Advocate  
for the appellants (in FAO-1466-2016).

Mr. S. S.Narula, Advocate  
for the appellants (in FAO-3671-2015).

Mr.Manoj Dhiman, Advocate  
for Mr. Vishal Aggarwal, Advocate  
for respondents No.1 to 4(in FAO-6901-2015).

Mr. Rajeev Dev Sharma, Advocate  
for the respondent(s) (in FAO- 8003-2014, 9111-2014, 10227-  
2014, 10300-2014, 10311-2014, 3671-2015,).

**AMIT RAWAL, J.(ORAL)**

This order of mine shall dispose of the aforesaid appeals filed

at the instance of the Union of India.

The notification under Section 3-A of the National Highways Act, 1956 for widening of the National Highway from Jalandhar to Pathankot was promulgated on 24.12.2004. The acquisition of land in the present case is in respect of village Kounterpur. The competent authority assessed the compensation @ ₹ 1551/- per marla. On being referred the matter at the instance of land owners, the Arbitrator enhanced the amount of compensation vis-a-vis agricultural land @ ₹43,140/- per marla, for residential ₹49,569/- per marla and for commercial land ₹56,035/- and also held that land owner(s) shall be entitled to statutory benefits like solatium under Sections 23(2), 12% interest under Section 23(1-A) on the enhanced market value and interest @ 9% and 15% as provided under Section 34 of the Act for one year and rest for the period from date of taking possession till the date of payment of compensation.

Ms.Jatinder Jit Kaur, Mr. R. S.Madan and Mr. S.S. Narula, learned counsel appearing on behalf of the Union of India and National Highway Authority submit that the land owners have failed to place on record any documentary evidence i.e. sale transactions to prove on record the amount of compensation determined by the arbitrator which was on higher side. There is one sale deed dated 04.03.2008 which shows the rate of land as ₹23,000/- and thus applying such principle, the amount of compensation ought not to have been fixed. The land owners are not entitled to other benefits like solatium, enhancement and interest as per provisions of Sections 23(1-A), 34 of the Land Acquisition Act in view of judgment rendered by this Court in *M/s Golden Iron and Steel Forging Vs. Union of India and others, 2011 (4) RCR (Civil) 375*.

Learned counsel appearing on behalf of the land owners submits that award is fair, legal and justified and there is no illegality or perversity and is based upon the other attenuating circumstances and factors, in essence, the land acquired in respect of the village adjacent to village Kounterpur, in question. The assessment of compensation vis-a-vis loss of business, shifting of structure is legal and justified and thus prays for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book and of the opinion that the award of the Arbitrator vis-a-vis assessment of compensation qua the residential and commercial land at the above mentioned rate is legal and justified. The reasoning assigned by the Arbitrator reads thus:-

*“a. As explained in the above mentioned paras, the payment was made @ Rs.1551/- per marla i.e. @ Rs.2,48,191/- per acre. It is admitted fact by the respondent that the payment was made at the Collector rate. As explained above, the Collector rate is never the market rate. The evidence placed on file proves that the land was sold in the village @ Rs.46,000/- for 2 marlas (Rs.23,000/- per marla) vide sale deed No.6456, dated 04/03/2008. The land award was announced in 2007. If we take Rs.23,000/- per marla as Collector rate in 2008, then the market rate can easily be presumed to be at least 50% more than the Collector rate i.e. the land rate in 2008 might be around Rs.34,500/- per marla. If we take 10% increase every year then land rate in Dec.2004 (at the time of acquisition) comes out to be Rs.26,500/-.*

*b) In MA-140/2007 (Durga Dass Vs. U.O.Im) the NHAI paid Rs.14.80 lac/acre for gair mumkin abadi land. If we go by yard stick of para 9 (rate paid in Kapurthala) then market rate comes out to be Rs.74.00*

*lac per acre. 15% decrease for agricultural land will mean Rs.64.50 lac/acre (Rs.40,312/- per marla).*

*c) NHAI paid minimum Rs.62,500/- per marla in village Usman Shaheed, Chak Kasim, Dasuya, Kaintha, Jhingar Kalan and many other villages in 629 cases against collector rates of Rs.44,69 (14 times) and 3,750/- (more than 16 times) per marla as explained in para 7 above.*

*d) From my spot visit, the land near Pathankot City seems to be of high commercial potential. Such type of land between Dasuya and Tanda has already been paid @ Rs.62,500/- to Rs.2.5 lac per marla in 629 cases as explained above in para No.7. Therefore, land price of Kounterpur village which has a developed market along the NHAI, has commercial potential and in 2004, the land price is presumed to be average of Rs.26,500/-, Rs.40,312/- and Rs.62,500/- i.e. Rs.43,104/- per marla. Thus as per section 3G(7), (a) the market value of the land on the date of publication of notification is determined as Rs.43,104/- per marla. This price is fixed for agricultural land. For village Kounterpur any land residential will be paid 15% higher i.e. @ Rs.49,569/- per marla and commercial land will be paid @ 30% higher than agricultural land i.e. Rs.56,035/- per marla.”*

Arbitrator has taken into consideration the assessment and award of compensation arrived at in respect of land of village Dasuya as well as in respect of villages Usman Shaheed, Chak Kasim, Jhingar Kalan, Kaintha etc. and by spot inspection, assessed the amount of compensation. However, the assessment arrived qua the loss of business, shifting of structure is legal and justified but I am not in agreement with the finding of the Arbitrator on solatium under Section 23(1-A) and 34 of the Land

Acquisition Act. This Court in *M/s Golen Iron and Steel Forging's case (supra)* held that land owners are entitled to benefits under Sections 23(2) and 28 of the 1984 Act.

I am not in the agreement with the submission of Ms. Jatinder Jeet Kaur and case law relied upon by her of Hon'ble Supreme Court of India in *Bhupal Singh and others Vs. State of Hayana, 2015(5) SCC, 801* to contend that the post market rate cannot be taken into consideration. The Court has to assess the value as assessed by competent authority. The amount of compensation has been assessed keeping in view long highway. Thus, area required would definitely have higher potential.

In view of the aforementioned, the award of the arbitrator vis-a-vis assessment of the compensation with regard to the agricultural, commercial and residential is upheld, however, land owners are not entitled to interest / solatium under Sections 23(1-A) and 34 of the Land Acquisition Act.

The appeals stand disposed of in the abovementioned terms.

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

**March 30, 2016.**  
*Davinder Kumar*