

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

1. FAO No.2778 of 2016
Date of decision : 10.08.2016

Union of India and another

...Appellants

Versus

Daljit Kaur and others

...Respondents

2. FAO No.2923 of 2015 (O&M)
Date of decision : 10.08.2016

Union of India and another

...Appellants

Versus

Raghubir Singh and others

...Respondents

3. FAO No.5115 of 2014 (O&M)
Date of decision : 10.08.2016

Union of India and another

...Appellants

Versus

Ranbahadur Singh and others

...Respondents

4. FAO No.3755 of 2015 (O&M)
Date of decision : 10.08.2016

Union of India and another

...Appellants

Versus

Tilak Raj and others

...Respondents

5. FAO No.3816 of 2015 (O&M)
Date of decision : 10.08.2016

Union of India and another

...Appellants

Versus

Des Raj and others

...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
(In FAO Nos.3816 & 3755 of 2015)

Mr. R.S. Madan, Advocate for the appellants
(In FAO Nos.5115 of 2014, 2923 of 2015 & 2778 of 2016)

Mr. Satbir Rathore, Advocate for respondent No.1
(In FAO No.5115 of 2014, 3755 of 2015) and
for respondent Nos.1 and 2 (In FAO No.2923 of 2015)

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of aforementioned five FAOs.

The National Highway/Union of India is aggrieved of the
dismissal of the objections filed under Section 34 of 1996 Act seeking

setting aside of the award dated 29.05.2013, whereby the land situated in Village Latifpur, was sought to be acquired for widening of the National Highway 1-A i.e. from Jalandhar to Pathankot. The Notification under Section 3-A of the National Highway Act (hereinafter to be called as Act) was promulgated on 24.12.2004. The Competent Authority assessed the compensation at the rate of ₹27,000/- per marla for Chahi agricultural land. Feeling aggrieved against the aforementioned assessment, landowners sought the resolution of the dispute through Arbitrator in view of the statutory provisions under the Act. The arbitrator has enhanced the amount of compensation to ₹1,45,000/- per marla in case of agriculture land, ₹1,88,000/- per marla in respect of commercial land and ₹1.66 lac per marla in respect of residential land and also granted solatium at the rate of 30%.

Mr. R.S. Madan and Ms. Jatinder Jit Kaur, learned counsel appearing on behalf of appellants submits that Arbitrator for the purpose of determination of compensation, could not have taken into consideration the sale deed dated 24.05.2006 which is post notification. It would tantamounts to setting a wrong trends, though Arbitrator has also taken into consideration the land acquired in Village Kapurthala which is far away from Village Latifpur and could not be taken for the assessment of the compensation. Even otherwise, benefits under the Land Acquisition Act can be granted only as per the provision of Section 23(2) and 28-A of the Act in view of the law laid down by Division Bench of this Court in *M/s Golden Iron and Steel Forging Vs. Union of India and others, 2011(4) RCR (Civil) 375* and, therefore, the landowners are not entitled to solatium at the rate of

30% and as well as the interest at the rate of 9%, 12% and 15% which is in accordance with the provision of Section 34 of 1894 Act and urges this Court for setting aside of the award.

Per Contra, Mr. Satbir Rathore, learned counsel appearing on behalf of landowners in FAO No.5115 of 2014, 3755 of 2015 and 2923 of 2015 on behalf of respondent Nos.1 and 2 submits that solitary basis of the compensation has not been only post notification sale deed but also for the award given in respect of Village Chak Allah Baksh, which is at the distance of 1 to 2 KM from Village Latifpur, whereby the compensation had been awarded at the rate of ₹2,30,000/- per marla, though he does not dispute to the ratio decidendi culled out by Division Bench of this Court in *M/s Golden Iron and Steel Forging Vs. Union of India and others, 2011(4) RCR (Civil) 375* vis-a-vis granting of the limited benefits as per Sections 23 (2) and 28 of the Act and urges this Court for affirmation of the findings of the Arbitrator as the objections of the National Highway would not fall within the realm of Section 34 of the Act.

I have heard learned counsel for the parties and appraised the paper book and of the view that Arbitrator could not have taken into consideration the post notification sale deed which is against the settled canons of law. Until and unless certain special circumstances are being placed on record that show agreement to sell was also done at the same day and which was pre notification. In the instant case, position is not of such count. On going through the award, it reveals that Arbitrator had also taken into consideration the compensation awarded in respect of Village Chak

Allah Baksh, which is just at the distance of 1 to 2 KM from Village Latifpur. Land has been acquired for widening of National Highway 1-A. It does not make any difference that the acquisition in respect of Village situated or located close by had been awarded more cannot be taken into consideration as the purpose is the same. By taking into consideration the amount of compensation at the rate of ₹2,30,000/- per marla, Arbitrator in my view has reasonably assessed the compensation for agricultural land at the rate of ₹1,45,000/- per marla, ₹1,66,000/- for residential and ₹1,88,000/- for commercial land.

I am in agreement with the contention of Ms. Jatinderjit Kaur and Mr. Madan, vis-a-vis that Arbitrator could not have granted benefits other than permissible as per ratio decidendi culled out in Division Bench of this Court in *M/s Golden Iron and Steel Forging Vs. Union of India and others, 2011(4) RCR (Civil) 375, i.e.* benefits under Section 23(1)(A) of 1894 i.e. 9%, 12%, 15% interest.

The National Highway Authority of India is directed to pay the enhanced amount including the statutory benefits as awarded by this Court directly in the account of landowner(s) in order to avoid the agony of seeking the execution of the award.

But I am not in agreement with the contentions of the learned counsel for the landowners for enhancing the amount of compensation at the rate of ₹2,30,000/- per marla as has been shown in respect of Village Chak Allah Baksh, for, the notification under Section 3-A of the National Highway Act was issued in the year 2008, whereas in the present case, the

notification is of the year 2004.

In my view, the aforementioned findings of the Arbitrator qua granting of other benefits under Section 23 (1-A) of 1894 Act except under Section 28-A and 23 (2) in view of law laid down in M/s Golden Iron's case are not permissible and thus are set aside.

With the aforementioned modification, award of the Arbitrator to the extent of amount of compensation noticed above with regard to the agricultural, residential and commercial, is upheld.

Appeal stands disposed of in aforementioned terms.

10.08.2016
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(AMIT RAWAL)
JUDGE

Whether speaking/reasoned:- **Yes**

Whether reportable:- **Yes**