

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

Date of Decision: May 11, 2016

1. **FAO No.6131 of 2013 (O&M)**

Swaran Singh

...Appellant

Versus

Punjab State through District Collector, Jalandhar & others

...Respondents

2. **FAO No.641 of 2014 (O&M)**

Harcharan Singh

...Appellant

Versus

Punjab State through District Collector, Jalandhar & others

...Respondents

3. **FAO No.642 of 2014 (O&M)**

Bali Singh

...Appellant

Versus

Punjab State through District Collector, Jalandhar & others

...Respondents

4. **FAO No.824 of 2014 (O&M)**

Swaran Singh & others

...Appellants

Versus

Punjab State through District Collector, Jalandhar & 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.Paramjit Rajput, Advocate,
for the appellants in all the appeals.

Mr.Piyush Bansal, DAG, Punjab,
for the State.

Mr.R.S.Madan, Advocate,
for respondent No.4.

AMIT RAWAL, J. (Oral)

CM No.2593-CII of 2014 in FAO No.824 of 2014

Prayer in the application is for impleading the L.Rs of appellant Kartar Kaur. The same is supported by an affidavit.

The L.Rs of appellant are allowed to be impleaded for the purpose of prosecuting this appeal only.

CM stands disposed of.

Main cases

By this order, I intend to dispose of four F.A.O. Nos.6131 of 2013, 641, 642 and 824 of 2014 as the common questions of law and facts are involved in these appeals. The facts are being taken from FAO No.6131 of 2013.

The appellant is aggrieved of the order dated 26.5.2011 of the Objecting Court, whereby objections filed on behalf of the National Highway have been accepted and the matter has been remitted back to the competent authority for deciding the same afresh.

Mr.Paramjit Rajput, learned counsel appearing on behalf of the appellant submits that the Objecting Court does not have the power to remand the matter in view of the ratio decidendi culled out by the Division Bench of Bombay High Court in **Appeal No.35 of 2013 in Arbitration**

Petition No.47 of 2009 (Geojit Financial Services Limited Versus

Kritika Nagpal, decided on 25.6.2013. The remand could be done only in the matters as prescribed under sub-section (4) of Section 34 of the Arbitration and Conciliation Act, 1996, in essence the Objecting Court is only competent either to set-aside the award or affirm the same. Even otherwise, on merits, it was seriously objected to as the price of the land had been enhanced to ₹40.00 lacs per acre for Chahi, which comes to ₹25,000/- per marla and ₹50.00 lacs per acre for Abadi and interest @ 9% has been awarded in case the compensation is not paid within 90 days and beyond 90 days, @ 15%. He further submits that for the land situated in Village Bhagala, which is 1½ Kms.away from the land acquired of Village Musahibpur, the compensation to the tune of ₹2,30,000/- per marla has been awarded by the Arbitrator vide order dated 19.2.2014 and, thus, urges this Court for remanding the matter back to the Objecting Court to decide the same afresh by taking into consideration the award dated 19.2.2014.

Mr.R.S.Madan, learned counsel appearing on behalf of National Highway submits that the Objecting Court had taken into consideration various factors, which the Arbitrator did not take into consideration and realising the aforementioned mistake, remanded the matter back to the competent authority to decide the same afresh. No hardship would be caused to the land owners as they would be also given opportunity to place on record certain documents and, thus, the order under challenge be affirmed.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the Objecting Court, at the drop of the hat, cannot remand the matter back to the Arbitrator in view of the ratio decidendi culled out in **Geojit Financial Services Limited** (supra).

There is another aspect of the matter. As noticed above, the Arbitrator in respect of land situated in Village Bhagala, which is 1½ kms.away from the land in dispute, after considering the documents on record, has awarded the compensation to the tune of ₹2,30,000/- per marla. The land owners shall be entitled to place on record material in support of the submissions vis-a-vis the enhancement.

In view of the settled law, the Objecting Court is only competent to deal with the objections either to disagree with the findings rendered by the Arbitrator or affirm the same, but not in the manner and mode, which has been adopted in the present case.

Keeping in view the aforementioned facts and circumstances, the impugned orders passed by the Objecting Court in all the four appeals are set-aside. The matter is remanded back to the Objecting Court to decide the controversy afresh. Opportunity is granted to the land owners to place on record additional documents.

All the four appeals stand disposed of.

The parties, through their counsel, are directed to appear before the Objecting Court on 11.7.2016.

May 11, 2016
ramesh

(AMIT RAWAL)
JUDGE