

FAO No. 3077 of 2016(O&M)

1

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 3077 of 2016(O&M)
Date of decision : June 1 , 2016

Kulwant Singh and others

..... Appellants

Versus

Union of India and others

..... Respondents

FAO No. 3078 of 2016(O&M)

Amir Chand

..... Appellants

Versus

Union of India and others

..... Respondents

FAO No. 3081 of 2016(O&M)

Kamla Devi and another

..... Appellants

Versus

Union of India and others

..... Respondents

FAO No. 3082 of 2016(O&M)

Karam Chand

..... Appellant

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Paramjit Rajput, Advocate
for the appellant in all the appeals.

Mr. R. S. Madan, Advocate

for the respondents in all the appeals.

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 No. 11851, 11852, 11854, 11855-CII of 2016 in FAO Nos. 3077, 3078, 3081 & 3082 of 2016

These are applications under Section 151 CPC for placing on record the reply to the application for condonation of delay.

The applications are allowed.

Reply taken on record.

CM No. 11200, 11203, 11212,11215-CII of 2016 in FAO Nos. 3077, 3078, 3081 & 3082 of 2016

These are applications under Section 149 read with Section 151 CPC for making good the deficiency in court fees.

The applications are allowed.

Permission granted to make good the deficiency in court fee.

CM No. 11201, 11204, 11213,11216-CII of 2016 in FAO Nos. 3077, 3078, 3081 & 3082 of 2016

These are applications under Section 5 of the Limitation Act seeking condonation of delay in filing the appeal.

For the reasons stated in the applications, which are duly supported by an affidavit, delay in filing the appeals is condoned.

The applications stand disposed of.

FAO No. 3077,3078, 3081 and 3082 of 2016(O&M)

This order of mine shall dispose of four appeals.

The land owners are aggrieved of the impugned order whereby objections under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'the Act') at the instance of the National Highway have accepted and award of the arbitrator has been set aside. The matter has been remitted back to the arbitrator.

Learned counsel appearing on behalf of the appellant submits that the order of remand is against the ratio decidendi culled out by Hon'ble Division Bench of Bombay High Court in **Appeal No. 35 of 2013 in Arbitration petition No.47 of 209 titled as Geojit Financial Services Limited Vs. Kritika Nagpal decided on 25.6.2013**, no reasoning, much less cogent reasons have been assigned as to bring the case within the provisions of Section 34 (4) of the Act.

He further submits that the land was acquired by the National Highway for widening of National Highway-IA from Jalandhar to Pathankot in respect of land situated in village Jaswal Lehri and Fangrian. A copy of the order already passed by this Court in FAO No.880 and 1677 of 2015 has been passed on to this Court, thus urges for restoration of the award of the arbitrator.

Mr. R. S. Madan, learned counsel appearing on behalf of the National Highway submits that the award of the arbitrator viz-a-viz granting of interest under Section 34 of the Land Acquisition Act, 1894 is not in consonance with the judgment rendered 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** whereas land owners are only held entitled to statutory benefits under Section 23 (2) and 28-A of the Land

Acquisition Act, 1894.

I have heard learned counsel for the parties and appraised the paper book and of the view that since the land acquired was situated in village Jaswal Lehri and Fangrian. , this Court has already upheld the award of the arbitrator whereby compensation of ₹1,15,000/- per marla for agricultural land has been awarded.

The reasons assigned by the objecting court, in my view do not fall within the parameters of Section 34 (4) of the Act and the ratio decidendi culled out by the Bombay High Court in **Geojit Financial Services Limited's case (supra).**

In view of the aforementioned facts, I am of the view that the reasoning assigned by the objecting court is unfathomable. Accordingly, the order of the objecting court is hereby set aside. However the interest/solatum awarded by the arbitrator under Section 34 of the 1894 Act is not in consonance with the ratio decidendi culled out by the Division Bench of this Court in **M/s Golden Iron and Steel Forging's case(supra),** the same is hereby set aside. The land owners shall be entitled to the benefits as per provisions of Section 23 (2) and 28 of the Land Acquisition Act, 1894.

In view of the facts mentioned above, award of the arbitrator with the aforementioned modifications is restored in all the appeals. The appeals are partly allowed.

(AMIT RAWAL)
JUDGE

June 1 , 2016
archana