

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

1. FAO No.7632 of 2015 (O&M)
Date of decision : 11.05.2016

Govt. of India and another

...Appellants

Versus

Des Raj (dead) through LRs and others

...Respondents

2. FAO No.58 of 2016 (O&M)
Date of decision : 11.05.2016

Union of India and another

...Petitioners

Versus

Harjinder Singh 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 ? YES
3. Whether the judgment should be reported in the Digest ?

Present: Mr. R.S. Madan, Advocate for the appellants.

AMIT RAWAL, J. (Oral)

The appellant-National Highway is aggrieved of the dismissal of the objection filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as 'the Act') seeking setting aside of the award dated 25.07.2011, having been dismissed on the ground of limitation as well as

on merits.

Mr. R.S. Madan, learned counsel appearing on behalf of appellant submits that though appellant participated in the proceedings before the Arbitrator but the copy of the award as per provision of Sub-Section 5 of Section 31 was not supplied. On receipt of the same, the objection was filed on 31.07.2012. There was no delay and, therefore, objection cannot be said to have been barred as per the provision of Sub-Section 3 of Section 34 of the Act. The arbitrator had assessed the compensation at the rate of ₹70,000/- per marla which is on the higher side and also imposed the condition of interest at the rate of 9%, 15%, 18% if payment is not deposited during the time granted vide notification. Awarded compensation is phenomenal thus not sustainable, and thus urges this Court for setting aside of the award.

I have heard learned counsel for the appellant and appraised the paper book.

The arbitration proceedings were initiated on 19.07.2010. For almost one year, National Highway did not file the reply as noticed by the arbitrator and thereafter contested the case and chose to file the objection beyond period i.e. 90+30 days. Even did not deposit ₹70,000/- per marla as awarded by the Arbitrator and as per award therefore held liable to pay 18% interest. It is intriguing that officer concerned are not obtaining copy of award of the Arbitrator and approaches Courts in a most callous and lackadaisical manner. They have no regard and respect to the order of the Court and orders are being flouted with impunity. Tax payers money is being squandered away owing to the payment of heavy interest imposed on the National Highway on account of non-compliance of award.

I am of the view that such type of dereliction should not go unnoticed by the Court. The tardy attitude has already been noticed by the Arbitrator. I am of the view that the element of interest is liable to be recovered from the officer concerned who has chosen not to file the reply before the Arbitrator within the time frame i.e. for almost for one year and thereafter chose to file the appeal and objection before the Objecting Court knowing fully that the objections were not within a period of limitation. National Highway Authority is directed to initiate the departmental proceedings in accordance with law against concerned officials and submit a report failing which the Court may not be compelled to take the action as a natural corollary. Even otherwise no explanation has come forth in filing the appeal beyond the period prescribed under Sub-Section 3 of Section 34 of the Act. Even on merits, acquisition is based on the reasonable criterion and on the basis of awards already passed thus enhancement of compensation is not on the higher side. Land has been acquired for the purpose of winding up of the National Highway-1A i.e. from Jalandhar to Pathankot.

No ground for interference is made out.

Dismissed.

11.05.2016

pawan

(AMIT RAWAL)
JUDGE