

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

F.A.O.No.7985 of 2015 (O&M)
Date of Decision: March 21st, 2016

Union of India & another

...Appellants

Versus

Kulwant Singh & 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: Mrs.Jatinder Jit Kaur, Advocate,
for the appellants.**

AMIT RAWAL, J. (Oral)

The present appeal has been filed at the instance of Union of India against the order dated 23.9.2015, whereby the objections seeking setting-aside of the award dated 20.4.2012 passed by the Arbitrator, have been dismissed.

Mrs.Jatinder Jit Kaur, learned counsel appearing on behalf of the appellants submits that the award was passed on 20.4.2012, though the objections were filed on 24.12.2014. There is non-compliance of the provisions of sub-section (5) of Section 31 of the Arbitration and Conciliation Act, 1996 (for short "1996 Act"). On acquiring the knowledge, the objections were filed. Even the Arbitrator also awarded the solatium, which is against the provisions of National Highway Act, 1956 (for short "1956 Act:). The Arbitrator has also not taken into consideration the provisions of Section 143 of the Punjab Urban Development Authority, Act,

1995 and Section 3 of the Punjab Scheduled Roads and Controlled Area Restriction of Un-Regulated Development Act, 1963 as the compensation awarded by the Arbitrator is exorbitant and excessive and without adoption of legal procedure and, thus, prays for setting-aside of the order as the objections were squarely within the parameters of Section 34 of 1996 Act.

I have heard the learned counsel for the appellants and of the view that no explanation has come forward in not filing the objections within the period of 90+30 (grace period)=120 days. The authorities participated in the proceedings and were aware of the same.

As regards the objection of granting solatium, the Hon'ble High Court in **M/s Golden Iron and Steel Forging Versus Union of India & others, 2011(4) RCR (Civil) 375** has held that the provisions of Section 23 (2) and Section 28 of the Land Acquisition Act shall apply to the acquisition of the land acquired under 1956 Act. The Objecting Court has dealt with all the objections and held that it can exercise supervisory and not appellate jurisdiction as the objections were not falling within the provisions of Section 34 of 1996 Act.

It is now a settled law that in what circumstances, the award has to be interfered with. The question, which is now raised in the aforementioned appeal, has already been answered by the Hon'ble Supreme Court in catena of judgments, wherein it has been laid down that until and unless the award suffers from illegality as statutorily prescribed under Section 34 of the Act, the same cannot be interfered with. In this context, I intend to refer the judgments of Hon'ble Supreme Court in **Associate Builders Vs. Delhi Development Authority (2015) 3 SCC 49** and **Navodaya Mass Entertainment Ltd. Vs. J. M. Combines (2015) 5 SCC**

698. In the aforementioned judgments, the Hon'ble Supreme Court had culled out the ratio decidendi by holding that until and unless there is error apparent on the face of record or the arbitrator has not followed statutory legal position, it is only in these circumstances, it would be justified interfering with the award. The High Court should not act as a Court of appeal and reappraise the material/evidence and embark on a path by substituting its own view in support of the Arbitrator's view. It is not the case of the appellant that the award is against the public policy or has violated the principles of judicial approach, much less against the statute and other provisions of Section 34 of the Act. The Arbitrator has dealt with the dispute, which was contemplated and was within its scope. The parties to the *lis* had participated in the proceedings and were given proper notice not only with regard to the appointment of the Arbitrator but vis-a-vis proceedings. In my view, the award of the Arbitrator does not suffer from any illegality in as much as the Arbitrator, who is expert, has dealt with the matter and decided the claims of respective parties to the *lis*.

In my view, the award read as a whole is just, fair and reasonable. It is now a settled law that the Arbitrator is the sole judge of quality and quantity of the evidence before him and decide on the basis of the available evidence.

In my view, no error of law arises from the award as well as order impugned. The award is perfect and justified.

There is no merit in the aforementioned appeal. The same is accordingly dismissed.

March 21st, 2016
ramesh

(AMIT RAWAL)
JUDGE