

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

**FAO-9678-2014 (O&M)
Date of decision : 30.03.2016**

Union of India and another

...Appellants

Versus

Tehal Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. R.S. Madan, Advocate,
Mr. S.S. Narula, Advocate and
Ms. Jatinder Jit Kaur, Advocate
for the appellant(s)-Union of India.

Mr. Amandeep Singh Soni, Advocate,
Mr. Sherry Singla, Advocate,
Mr. R.D. Sharma, Advocate,
Mr. R.S. Manhas, Advocate,
Mr. A.S. Gill, Advocate,
Mr. Vivek K. Thakur, Advocate and
Mr. Vishal Aggarwal, Advocate
for the respondent(s)-landowner(s).

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-2062-CII-2016 IN FAO-683-2016

For the reasons mentioned in the application, the delay of 18 days
in filing the appeal is condoned.

CM stands disposed of.

MAIN CASES

This order of mine shall dispose of appeals bearing FAO No.9678 of 2014 titled as “Union of India and another V/s Tehal Singh and others”, FAO No.8011 of 2014 titled as “Union of India and another V/s Ashok Kumar and others”, FAO No.10306 of 2014 titled as “Union of India and another V/s Yash Pal and others”, FAO No.8010 of 2014 titled as “Union of India and another V/s Chanchal Kaur and others”, FAO No.3673 of 2015 titled as “Union of India and another V/s Shamo Devi and others”, FAO No.7390 of 2015 titled as “Union of India and another V/s Jugal Kishore and others”, FAO No.8683 of 2014 titled as “Union of India and another V/s Harbhajan Singh and others”, FAO No.3539 of 2014 titled as “Union of India and another V/s Jaspal Singh and others”, FAO No.3644 of 2014 titled as “Union of India and another V/s Anchal Singh and others”, FAO No.7385 of 2015 titled as “Union of India and another V/s The Gurdaspur District Kangra Cooperative Storage Ltd. and others”, FAO No.683 of 2016 titled as “Union of India and another V/s Ravi Kumar and others”, FAO No.1465 of 2016 titled as “Union of India and another V/s Mohinder Pal and others”, FAO No.6150 of 2014 titled as “Union of India and another V/s Amarjit Kaur and others” and FAO No.9681 of 2014 titled as “Union of India and another V/s Bhagwan Dass Chug and others” filed at the instance of the appellant(s)-Union of India.

Notification under Section 3-A of the National Highway Act, 1956, for widening of the National Highway No.1-A was promulgated on

24.12.2004 for acquiring land in respect of Village Daulatpur, Tehsil Pathankot, District Gurdaspur. The Competent Authority assessed the amount of compensation @ ₹ 72,00,000/- per acre which come ₹ 37,190/- per marla for gair mumkin abadi land.

Aggrieved of the aforementioned assessment, the landowner(s) sought reference as per the provisions of Section 3G(5) of the National Highways Act, 1956, by referring the matter to the Arbitrator and the matter was referred to the Arbitrator. The Arbitrator, in some cases, on the basis of the evidence brought on record, much less, sale deeds dated 07.01.2005 and 18.08.2004, assessed the amount of compensation @ ₹ 4,50,000/- per marla against ₹ 37,190/- and also granted a lump sum of certain amount viz-a-viz the boundary wall, sewerage charges etc, however, in other cases, also held that the landowners are entitled to the statutory benefits i.e. solatium @ 30% and the interest @ 9% and 15%.

Learned counsel appearing on behalf of the Union of India submits that as per the the judgment rendered by the Division Bench of this Court in **“M/s Golden Iron and Steel Forging V/s Union of India and others” 2011 (4) RCR (Civil) 375**, only statutory benefits under Sections 23(2) and 28 of the Land Acquisition (Amendment) Act, 1984 (hereinafter called 'the 1984 Act'), shall be applicable, but not other benefits like interest @ 9% and 15%. Even post-notification sale deed of the year 2005 describing the rate of land @ ₹ 3,72,000/- per marla was taken into consideration the amount of compensation is liable to be considerably reduced from ₹ 4,50,000/-. In FAO No.8011 of 2014, FAO-7390 of 2015, FAO No.1465 of 2016 and FAO No.683 of 2016, the Arbitrator on remand enhanced the amount of compensation

@ ₹ 7,00,000/- by taking into consideration the rate of collector as prevailing in the year 2011, which cannot be taken into consideration as the notification is of the year 2004.

Learned counsel appearing on behalf of the landowners submits that the occasion of enhancing the amount of compensation @ ₹ 7,00,000/- per marla arose as the matter was remanded back by the Objecting Court in pursuance to objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter called 'the 1996 Act') and the remand order is of the year 2011 and therefore, occasion arose for the Arbitrator to take into consideration the current value i.e. Collector rate of the year 2011 in enhancing the amount of compensation, therefore, there is no illegality and perversity in the order and prays for enhancement of the amount of compensation from ₹ 4,50,000/- to ₹ 7,00,000/-.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no force in the submissions of the learned counsel for the landowners for sustaining the amount of ₹ 7,00,000/- per marla as the Arbitrator could not have taken into consideration the collector rate prevailing in the year 2011 as the notification under Section 3-A of the National Highway Act, 1956, was promulgated in the month of December 2004. Even otherwise, the landowners produced on record the sale deeds of pre-notification dated 18.08.2004 which reveals the rate of the land at that relevant time was ₹ 3,34,000/- per marla and post-notification sale deed dated 07.01.2005, there is a marginal increase from ₹ 3,34,000/- per marla to ₹ 3,72,000/- per marla. I am of the view that the amount of compensation assessed by the Arbitrator @ ₹ 4,50,000/- per marla is fair, reasonable and

justified and the enhancement of the amount of compensation @ ₹ 7,00,000/- per marla by taking into consideration the collector rate of the year 2011 is not justified and thus, the amount of compensation is reduced from ₹ 7,00,000/- to ₹ 4,50,000/- whereas the Award of the Arbitrator is upheld viz-a-viz the compensation determined @ ₹ 4,50,000/- per marla. I do not intend to differ with the assessment viz-a-viz the boundary wall, severance charges etc. However, the landowners will only be entitled for the statutory benefits as per the Sections 23(2) and 28 of the 1984 Act and in view of the judgment rendered by the Division Bench of this Court in **“M/s Golden Iron and Steel Forging V/s Union of India and others” 2011 (4) RCR (Civil) 375.**

Accordingly, the appeals are disposed of in the aforementioned terms.

30.03.2016
yogesh

**(AMIT RAWAL)
JUDGE**