

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of decision : 30.03.2016

1.

FAO-880-2015(O&M)

Union of India and another

... Appellants

Versus

Surjit Kumar and others

... Respondents

2.

FAO-1677-2015

Union of India and another

... Appellants

Versus

Asha Rani and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. R. S.Madan, Advocate
for the appellants (in FAO-880-2015).

Mr. S. S. Narula, Advocate
for the appellants (in FAO-1677-2015).

Mr.K.K. Rajput, Advocate
for respondent No.1 (in both FAOs).

AMIT RAWAL, J.(ORAL)

This order of mine shall dispose of the appeals bearing FAO-880-2015 and FAO-1677-2015 filed at the instance of the Union of India.

The notification for widening of the National Highway under

Section 3-A of the National Highway Act, 1956 (hereinafter called 'the 1956 Act') was promulgated on 03.04.2008. The acquisition of land in the present case is in respect of village Fangrian. The competent authority assessed the compensation @ ₹12,500/- per marla.

The land owners being aggrieved by the assessment sought the reference before the Arbitrator, the Arbitrator on the basis of the evidence on record enhanced the compensation to the tune of ₹1,15,000/- per marla for agriculture land and ₹10,13,000/- for structure.

Mr. R. S. Madan & Mr. S.S.Narula, learned counsel appearing on behalf of the Union of India submit that the post notification sale deeds (dated 11.05.2011, 08.06.2010, 23.07.2010 and 09.03.2009) cannot be taken into consideration by the Arbitrator and price has to be fixed as per sale deed dated 12.06.2008 and the compensation for agricultural land can be at best of ₹1 lac per marla instead of ₹1,15,000/-. The land owners are not entitled to solatium @ 30% as per Section 34 of 1894 Act and in view of 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*.

Mr. K.K.Rajput, Advocate appearing on behalf of the land owners submits that there is no illegality and perversity in the award of the arbitrator much less there is marginal difference of ₹15,000/- and Court should not interfere in the findings of Arbitrator as the scope under Section 34 is limited and the petition has been rightly dismissed and prays for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book and am in the agreement with the submission of Mr. K.K. Rajput

that compensation @ ₹1 lac per marla in view of the sale deed dated 12.06.2008 should not be taken into consideration. In my view, land owners who have been deprived of their land, cannot be deprived of compensation in such extremities and hardship as there was loss to the tune of ₹3000/-. Accordingly, the award of the arbitrator, in my view, do not suffer from any illegality and perversity. The amount of compensation @ ₹1,15,000/- per marla for agricultural is accordingly upheld. However, findings rendered by the arbitrator with regard to solatium @ 30% and benefits under Section 34 is set aside whereas on the contrary, land owners, in view of the judgment rendered by the Division Bench of this Court in *M/s Golden Iron and Steel Forging's case (supra)*, shall be entitled to statutory benefits as per provisions of Section 23(2) and 28 of the Land Acquisition (Amendment) Act, 1984.

In view of the aforementioned modification, the appeal is partly allowed and award is modified in the abovesaid terms.

(AMIT RAWAL)
JUDGE

March 30, 2016.
Davinder Kumar