

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.17010 of 2017
Date of Decision : 06.09.2017

Vinod Kumar
.....Petitioner
Versus
The State of Haryana and others
..... Respondents

and other connected matters, i.e.

Filed By:	Case No.
Petitioner/Landowners	CWP Nos.17177, 17367, 17390, 17393, 17398, 17703, 17704, 17783, 17792, 17775, 17813, 17843, 17986, 18450, 18451, 18502, 18503, 18965, 18990, 19337, 19339, 19343, 19596, 19637, 19873, 19931, 19932, 19991, 19993, 20017, 20031, 20041, 20044, 4746, 14177 (O&M), 14205, 14427, 15000, 15015, 15017, 15061, 15084, 15126, 15269, 15434, 15764, 14538, 14581, 14826, 14827, 14832, 14850, 14851, 14888, 14889, 14891, 14999, 15031, 15032, 15059, 15121, 15772, 15781, 15952, 15983, 16442, 16247, 16392, 16654, 16771, 16796, 16372, 16439 of 2017,

CORAM: HON’BLE MR. JUSTICE ARUN PALLI

Present: For the Petitioners/Landowners

- Mr. Shailendra Jain, Senior Advocate with
- Mr. Satyendra Chauhan, Advocate;
- Mr. Tanmoy Gupta, Advocate;
- Mr. Jasmer Singh Rozera, Advocate;
- Mr. Jasmer Singh Rozera, Advocate for
- Mr. M.S.Tewatia, Advocate;
- Mr. Anil Kumar Rana, Advocate;
- Mr. Sandeep Kumar Rana, Advocate;
- Mr. Sudhanshu Makkar, Advocate;
- Mr. Abhishek Goyal, Advocate;
- Mr. Premjit Kalia, Advocate;
- Mr. Raj Kaushik, Advocate;

Mr. Yogeshwar Dayal Kaushik, Advocate for
Ms. Jony Bansal, Advocate;
Mr. Shiv Kumar, Advocate;
Mr. Surender Dhull, Advocate;
Mr. A.S. Manaise, Advocate;
Mr. R.S. Manahas, Advocate;
Mr. Raj Karan Singh Verka, Advocate;
for the petitioner(s).

For the respondents

Ms. Rukhsaar Sandhu, AAG, Punjab.

Mr. Shivendra Swaroop, AAG, Haryana.

Mr. Satya Pal Jain, Addl. Solicitor Gen. of India with
Mr. Dheeraj Jain, Sr. Counsel Govt. of India for UOI;
Mr. Brijeshwar Singh Kanwar, Advocate for UOI;
Mr. D.K. Singal, Advocate for NHAI;
Mr. Rishi Kaushal, Advocate for NHAI
(in CWP-15952, 15983, 16247 and 16654 of 2017;
for the respondent(s).

ARUN PALLI, J. (Oral)

Vide this order and judgment, I shall decide a batch of 74 writ petitions that have been preferred by the claimants/landowners. Notices in few of these petitions were issued to the respondents and replies thereto have been filed. But, in respect to the remaining writ petitions, for, the nature of order I propose to pass in the matter no formal written statements/counter affidavits, on behalf of the respondents, are indeed necessary, at this stage. And, for, the issue that arises for determination in all these petitions is common, these are being disposed of by a common order.

Concededly, vide separate notifications the land holdings of the petitioners/landowners were acquired for widening and construction of

new highways under the National Highway Act 1956 (for short, 'the 1956 Act'). The competent authority, vide separate awards, had assessed the value of the land under different acquisitions. The common grievance that the petitioners have is that they were not awarded solatium and interest in terms of the provisions of Section 23(2) and 28 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act'). Reliance is placed upon the decision of the Division Bench of this Court in **M/s Golden Iron & Steel Forging Vs. Union of India and others 2011(4) RCR (Civil) 375**, vide which, the provisions of Section 3J and 3G of the 1956 Act were held to be ultra vires to the Constitution, in so far as they denied payment of solatium and interest, and it was concluded that all acquisitions made under the 1956 Act, would necessarily have to grant solatium and interest in terms similar to those contained in Section 23(2) and 28 of the 1894 Act.

Learned counsel for the petitioners have also brought on record and referred to numerous orders passed by the Division Bench of this Court, post decision in **M/s Golden Iron & Steel Forging (supra)**, wherein directions were issued to the competent authority to consider the claims of the landowners in terms of the said judgment. And, vide another order dated 14.12.2016, rendered in CWP No.25846 of 2016 (**Joginder Singh and another Vs. Union of India and others**), the Division Bench, in addition to **M/s Golden Iron & Steel Forging (supra)**, referred to an order passed by the Supreme Court, dated 11.08.2016, in Civil Appeal No.10553 of 2011 (**Sunita Mehra and others Vs. Union of India (UOI) and others**), and directed the authorities to determine the claim of the landowners, in the wake of the decision of this Court and the order passed by the Supreme

Court referred to above. Further, if the petitioners, therein, were found entitled to their claims, to pass a supplementary award. But, the amount payable was required to be deposited in a nationalized bank to be disbursed subject to the final decision in the pending appeal before the Supreme Court against the decision in **M/s Golden Iron & Steel Forging (supra)**. The operative part of the order dated 14.12.2016 reads thus:-

“The principles laid down by this Court in Golden Iron and Steel Forgings's case (supra), are undisputable. The fact that the benefit of solatium and interest has been extended to other similarly situated landowners vide order dated 27.09.2012 in Bhag Singh's case (supra), can be hardly denied. In these circumstances, it appears imperative upon respondent Nos.3 & 4 to consider the petitioners' claim for the grant of solatium and interest in accordance with the decision of this Court in Golden Iron and Steel Forgings's case (supra).

While considering the claim of the petitioners in the light of the above-cited decision, the respondents shall be required to follow the recent directions dated 11.08.2016 issued by the Hon'ble Supreme Court in Civil Appeal No.10533 of 2011 (Sunita Mehra and another versus Union of India and others), to the following effect:-

“.....that the award of solatium and interest on solatium should be made effective only to proceedings pending on the date of the High Court

order in **Golden Iron & Steel Forgings vs. Union of India and others**, i.e. 28.03.2008. Concluded cases should not be opened. As for future proceedings, the position would be covered by the provisions of the **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013** (came into force on 01.01.2014), which Act has been made applicable to acquisitions under the **National Highways Act, 1956** by virtue of notification/order issued under the provisions of the Act of 2013.

With the aforesaid modification and clarification in the order of the High Court, these civil appeals are disposed of.....”

The writ petition is accordingly disposed of in the following terms:-

- (i) The petitioners may apply to the Competent Authority-cum- Land Acquisition Collector within a period of one month for the grant of aforesaid benefits;
- (ii) The said Competent Authority will issue notice and call for the records/reply from the National Highway Authority of India;
- (iii) The Competent Authority shall thereafter determine the petitioners' claim for the aforesaid benefits, especially in view of the decisions of this Court and the Hon'ble Supreme Court, cited above;
- (iv) If the petitioners are found entitled to, a self speaking supplementary Award to this effect shall be passed within a

period of four months from the date of filing of the application;

(v) The National Highways Authority of India is directed to deposit the amount payable in terms of the supplementary award, in interest-bearing fixed deposit account(s) in any nationalized bank which shall be disbursed subject to attaining finality of the litigation in the Golden Iron and Steel Forgings's case (supra).

The writ petition stands disposed of accordingly”.

It is not disputed that the respondents authorities never questioned the order dated 14.12.2016, any further, and rather complied therewith. But, there has indeed been a turn of events, for, the parties to the lis in **M/s Golden Iron & Steel Forging (supra)** settled the dispute and the appeals filed by them were disposed of by the Supreme Court in terms of the settlement arrived at. Meaning thereby, not only that the judgment in **M/s Golden Iron & Steel Forging (supra)** is no longer under challenge, but had rather been accepted by the respondents.

In conspectus of the above, the writ petitions are disposed of with a direction to the respective parties in this bunch of petitions, to resort to necessary measures in terms of clause **(i) to (iv)** set out in the order dated 14.12.2016, passed by the Division Bench in **Joginder Singh and another (Supra)**. Needless to assert that the petitioners/landowners who are found entitled to relief being claimed, shall be disbursed the requisite amount on

pronouncement of the supplementary award, but not later than two months after it is pronounced. Learned counsel for the parties apprised this Court that in few of the writ petitions, the claimants/landowners had even earlier approached this Court. Petitions filed by them to award solatium and interest were disposed of with a directions to consider their claims. And in compliance thereto they have even been disbursed the requisite amount in terms of Section 23(2) and 28 of the Act. And, now in the wake of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 they are claiming 100% solatium. Suffice it to say that this Court has not examined the claim of any of the petitioners on merits, for, the competent authority shall determine their entitlements/claims in accordance with law. However, if certain landowners are not held entitled to any relief the competent authority shall pass comprehensive orders assigning reasons in support thereof.

The writ petitions are accordingly disposed of.

06.09.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No