

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

CWP No. 2195 OF 2017 (O&M)

Date of decision: 27.02.2017

Gurdwara Maruph Dera Baba Bephikar Das .. Petitioner

vs.

State of Punjab and anr. .. Respondents

Coram: **Hon'ble Mr. Justice Rajesh Bindal**
 Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. N.S. Sodhi, Advocate
 for the petitioner.

Mr. Bhupinder Singh Thind, AAG, Punjab

Rajesh Bindal, J.

In the case in hand, the land owned by the petitioner was acquired for the purpose of four laning of National Highway 71. The amount of compensation was determined by the competent authority. The dispute was raised regarding entitlement thereof. The matter was referred by the competent authority to the District Judge Moga, vide communication memo dated 13.05.2016, under Section 3H(4) of the National Highway Act, 1956 (for short 'the Act'). The District Judge, Moga, in turn referred the matter to the Addl. Civil Judge (Senior Divn.), Nihal Singh Wala for decision. It is the order dated 08.09.2016 passed by the Additional Civil Judge (Senior Division), Nihal Singh Wala, dismissing the application in default, which has been challenged in the present petition.

On 07.02.2017 noticing the facts of the case, this Court directed the Registry of this Court to examine as to whether the matter was to be decided by the District Judge/ Additional District Judge, Moga, or it could be further assigned to the Civil Judge (Senior Division) for decision. After examining the Act, Rules and Instructions especially under Section 3H of

the Act. The opinion expressed is that the matter could not have been assigned further by the District Judge.

In the case in hand, the matter having been sent by the District Judge to the Additional Civil Judge (Senior Division), Nihal Singh Wala for decision, there was error in exercise of jurisdiction. Hence, the impugned order dated 08.09.2016 (Annexure P-8) passed by Additional Civil Judge (Senior Division), Nihal Singh Wala is set aside and the matter is remitted back to the District Judge, Moga for decision afresh. The District Judge, Moga may either keep the file or assign the same to any Addl. District Judge. Further proceedings shall be initiated by assignee Court after effecting service upon the parties.

The writ petition is disposed of accordingly.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

27.02.2017
dinesh

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No