

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

**Civil Writ Petition No.22795 of 2017**

**Date of Decision: 06.10.2017**

Avtar Singh and others

..... Petitioners

*Versus*

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH**

Present: Mr. Raj Kaushik, Advocate for the petitioners.

\*\*\*\*\*

**JASWANT SINGH, J. (ORAL)**

The petitioners, who are 40 in number, whose land was acquired for construction of the Nabha Power Thermal Plant, Rajpura, District Patiala, vide Notification dated 14.02.2008, under Section 4 of the Land Acquisition Act, 1894 (for short '1894 Act'), have approached this Court for claiming solatium @ 100% and interest in view of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act'), which came in force w.e.f. 01.01.2014.

The claim for such grant is based on the judgment dated 11.08.2016 (**Annexure P-3**), rendered by Hon'ble Supreme Court in **Civil Appeal No.10533 of 2011** titled as '**Sunita Mehra and another Versus Union of India and others**'.

Learned Counsel for the petitioners, apart from relying upon the aforesaid judgment (**P-3**), has also relied upon a decision dated 06.09.2017, passed by a Coordinate Bench of this Court in **CWP No.17010 of 2017** and 73 connected matters, whereby the issue of grant of benefit was directed to be decided by the competent authority. Similar relief is claimed by learned Counsel on behalf of the petitioners.

Upon hearing learned Counsel for the petitioners at length and perusing the judgments relied upon, this Court finds that the present writ petition is an attempt to overreach the process of the Court.

It is not in dispute that the acquisition of the land of the petitioners was under Section 4 read with Section 17 of the 1894 Act and an award was passed on 29.08.2008. It is also not in dispute that the landowners/petitioners did not file any reference seeking enhancement of compensation either under Section 18 of the 1894 Act or any written application under Section 28-A of the 1894 Act seeking the enhanced compensation, as awarded by the Reference Court. It is also not in dispute that the relied judgment (**P-3**) is relatable to acquisition of land under the National Highways Act, 1956 (for short '1956 Act'), wherein the question involved was grant of solatium and interest to the landowners, whose land had been acquired for construction of the highways or widening of the highways under the 1956 Act. The claim therein was that the benefit of solatium and interest was being denied in view of the provisions of the 1956 Act whereas if the same was to be acquired under the 1894 Act then the benefit of solatium and interest was admissible in view of the provisions of the 1894 Act.

In the said context, a Division Bench of this Court, vide decision dated 28.03.2008, rendered in '**M/s Golden Iron and Steel Forgings Versus Union of India and others, 2011 (4) RCR (Civil) 375**', quashed the provision in the 1956 Act, which debarred the applicability of the provisions of the 1894 Act to the proceedings initiated under the 1956 Act, thereby extending the benefit of award of solatium and interest to the landowners, whose land had been acquired under the 1956 Act. The Hon'ble Supreme Court, vide decision at **P-3**, made the applicability of the benefit under the Division Bench judgment of this Court to be prospective i.e. w.e.f. 28.03.2008 applicable to the pending proceedings initiated by the landowners under the 1956 Act. While recording so, the Hon'ble Supreme Court, vide decision dated

11.08.2016 (P-3) rightly noticed that the benefit of 100% solatium in the light of the provisions of 2013 Act, applicable w.e.f. 01.01.2014, would be granted to the landowners, whose land has been acquired under the 1956 Act in view of the applicability of the 2013 Act to the provisions under the 1956 Act. Even in the decision rendered by a Coordinate Bench of this Court on 06.09.2017, it is the claim of the landowners, whose land had been acquired under the 1956 Act, for grant of solatium and interest in view of the judgments, has been referred for being decided on merits before the competent authority.

In the present case, the position is entirely different as the land of the petitioners was acquired under the provisions of the 1894 Act and as such has absolutely no relevance either to the provisions of 1956 Act or to the cited judgments.

In view of the above, no ground for interference under Article 226/227 of the Constitution of India is made out.

Accordingly, the present petition is dismissed.

October 06, 2017  
Gagan

(JASWANT SINGH)  
JUDGE

|                                  |               |
|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i>        | <i>Yes/No</i> |