

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

FAO No. 7211 of 2017 (O&M)

Date of Decision: 22.11.2017

Union of India and another

..... Appellants

Versus

Bimla Devi and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Ish Puneet Singh, Advocate
for the appellants.

JASWANT SINGH, J.

1. This appeal under Section 37 of the Arbitration and Conciliation, Act 1996 (for short 'Act') is filed assailing order dated 10.12.2015 passed by Additional District Judge, Jalandhar, whereby objection petition under Section 34 of the Act has been dismissed and award dated 18.07.2011 (**Annexure A-1**) has been upheld.

2. The facts emerging from the pleadings and record are that the appellant in exercise of power conferred by Section 3A read with Section 3C and 3D of the National Highway Act, 1956, issued a notification and thereafter acquired land falling in Village Sailli Kullian, District Pathankot, District Gurdaspur for the purpose of widening and four laning of Jalandhar Pathankot section of National Highway.

3. The appellant granted compensation to land owners on account of land and super structure. The respondent on account of structure standing on the acquired land was awarded a sum of Rs. 1,19,991/- as

assessed by technical officials of PWD (B&R), Department of Punjab Government.

4. The respondent filed a petition for enhancement of compensation of the acquired land before Arbitrator cum Commissioner—Jalandhar Division Jalandhar, who while exercising the power under the Act conferred by National Highway Act, 1956 enhanced the compensation vide award dated 18.07.2011. The arbitrator assessed cost of structure @ Rs. 450 per Sq. feet in addition to compensation of Rs. 2.5 lakh on account of compulsion to shift residence, a sum of Rs. 25,000/- on account of shifting of structure, Solatium as per provisions of Land Acquisition Act and interest 9% from the date of notification of acquisition of land till the date of payment. The arbitration further awarded interest @ 15% in case enhanced compensation is not paid within 90 days and 18% in case payment is not made within 6 months from the date of award. The appellant assailed aforesaid award before the learned Objecting Court who vide impugned order dated 10.12.2015 dismissed objection petition holding that there is no misconduct on the part of arbitrator and scope of interference is very limited. The objecting court is not court of appeal and cannot re-evaluate quality and reasonableness of the evidences relied upon by arbitrator.

5. The counsel for the appellant disputed rate of structure determined by arbitrator, compensation of Rs. 2.5 lakh for shifting structure solatium @ of 30% and interest on the enhanced amount.

6. Having scrutinized record of the case and hearing arguments of counsel for the appellant, this court finds present appeal bereft of merits and needs no interference of this court because as held by Objecting Court, the objecting is not a court of appeal and scope of interference is very limited.

Objecting Court can interfere only if findings of arbitrator are contrary to contract or law of land or public policy or findings are such which shocks the conscience of the court.

In the present case neither there is any allegation of misconduct on the part of Arbitrator nor this court finds that award is contrary to law of the land or public policy. Learned Objecting Court has rightly upheld solatium in view of judgment of this court in the case of ***Golden Iron and Steel forging Vs. Union of India & Others 2011 (4) RCR (Civil) 375*** and ***RLF Industries Limited Vs. National Highway Authority of India & Others, 2011 (3) Law Herald 2233***. The arbitrator has assessed value of structure after examining photographs, site plan as well valuation report. As per site plan, residential building consisted of double story house having three rooms, two shops, one store room, *varandha*, one *kitchen*, one bathroom, one toilet, court yard with C.C. flooring and iron Sheet & stairs.

Interest has been awarded as permitted by Section 31 (7) of the Act so there is no infirmity in award of interest. The award of compensation on account of shifting of residence does not seem to be unreasonable so there is no infirmity much less warranting interference under Section 34 or 37 of the Act, therefore present appeal is dismissed and order of objecting court dated 10.12.2015 and award dated 18.07.2011 are upheld.

November 22, 2017

'dk kamra'

**(JASWANT SINGH)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>