

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 22.02.2018

1)FAO No. 153 of 1991 (O&M)

Hakam Singh and Others

..Appellants

Vs.

Union of India and Others

..Respondents

2) FAO No. 759 of 1991(O&M)

Gurnam Singh

.. Appellant

Vs.

Union of India and Another

..Respondents

3)FAO No. 760 of 1991 (O&M)

Bahal Singh and Another

..Appellants

Vs.

Union of India and Another

..Respondents

4)FAO No. 761 of 1991 (O&M)

Bakhtawar Singh and Others

..Appellants

Vs.

Union of India and Another

..Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. M.L. Sarin, Sr. Advocate with
Mr. Ritesh Aggarwal, Advocate for the appellant (s)
(in FAO No. 153 of 1991).

None for appellant (in FAO No. 759/760/761 of 1991).

Mr. Alankrit Bhardwaj, Advocate
for Mr. Namit Kumar, Advocate for respondent No. 1.

AJAY TEWARI, J.(ORAL)

This order will decide the above four appeals which have been filed against the award of the Additional District Judge, Faridkot passed in the capacity of Arbitrator under the Punjab Requisitioning and Acquisition Act, 1953. By the impugned award, the Arbitrator had enhanced the compensation. However, the dispute which has arisen is that as per the appellants there were other assets on the land which were not mentioned in the Schedule and they were entitled to compensation for those also. The Arbitrator, however, held that he could determine the compensation only for those assets which were mentioned in the Schedule.

Learned Senior counsel appearing in FAO No. 153 of 1991 has relied upon CWP No. 10959 of 1988, decided on 01.08.1991 where this Court has held as under:-

“In a nut-shell, the dispute between the parties is with regard to the actual existence of the assets. By way of instance, the petitioners claim that the number of trees which actually existed on the land was more than the number which has been determined by the respondents. This dispute has to be settled by an impartial authority. The Act has entrusted this job to the Arbitrator. The respondents cannot be the judge of their own cause. They are an interested party and their word cannot be final. If there was no dispute regarding the actual assets on the land, the reference made by the respondents would be unassailable. However, a perusal of the record shows that the dispute was there not only with regard to the compensation assessed by the Land Acquisition Collector, but also with regard to the actual existence of the assets on the land. The petitioners claim that all their assets have not been taken into consideration. The respondents urge that there were no other assets. Surely, this dispute had to be resolved by the agency provided under the Act. In this situation, the action of the respondents in not making a reference with regard to this dispute cannot be sustained.

Accordingly, I accept this writ petition and direct the respondent to appoint an Arbitrator to determine the claim made by the petitioners. If on examination of the evidence, the Arbitrator finds that there existed more assets than those alleged to be existing by the respondents, compensation in respect thereof shall be determined by the Arbitrator. The petitioners shall also be entitled to their costs which are assessed at Rs. 2000/- per case”

Learned Counsel appearing on behalf of the UOI states that in the impugned order the following observation has been made:-

“As such, from his evidence, it does not appear probable that he actually saw all the assets which have been mentioned in his reports”, and as per him the Arbitrator has considered the claim of the appellants. However learned Senior Counsel has argued that this is not a clear finding. He has also taken me through the entire discussion and had argued that on the reading of the discussion it is clear that Arbitrator had proceeded on the basis that he was to determine compensation only for those matter which were mentioned in the schedule. I find that this argument is correct. The sentence pointed by the counsel for the UOI does not indicate that Arbitrator had given a specific finding.

In the circumstances, the appeal stands disposed of in the same terms as in CWP No. 10959 of 1988.

February 22, 2018

Poonam (II)

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No.