

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

Civil Writ Petition No.13170 of 2016

Ramesh Kumar and others

... Petitioners

Versus

Union of India and others

... Respondents

(2)

Civil Writ Petition No.16213 of 2016

Balbir Singh and others

... Petitioners

Versus

Union of India and others

... Respondents

(3)

Civil Writ Petition No.23701 of 2016

Rajni Goel and others

... Petitioners

Versus

Union of India and others

... Respondents

Decided on : 25.01.2018

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Karan Gupta, Advocate for the petitioners.

Mr. Sunil Kumar Sharma, Senior Panel Counsel
for respondent-UOI.

Ms. Jasleen Kaur Sidhu, AAG, Punjab.

Mr. D.K. Singal, Advocate for respondent No.2
in CWP Nos.13170 & 16213 of 2016.

Mr. Charanjit Sharma, Advocate for respondent No.2
in CWP No.23701 of 2016.

G.S. Sandhawalia, J. (Oral)

The present judgment shall dispose of three writ petitions i.e.

CWP Nos.13170, 16213 and 23701 of 2016 The facts are being taken from

CWP No.13170 of 2016 'Ramesh Kumar and others Vs. Union of India

and others'.

The petitioners seek a writ in the nature of mandamus directing respondent No.3, the Competent Authority-cum-Land Acquisition Collector-Sub Divisional Magistrate, Moonak, District Sangrur to pay the compensation to the petitioners as awarded in the award dated 31.10.2014 (Annexure P-1) and calculated as per the calculation sheet dated 26.10.2015 (Annexure P-3).

A prayer has further been made to pay interest from the date of award till the disbursement of compensation as the amount has been illegally withheld by them in an arbitrary and illegal manner by the respondents.

At the outset, Mr. Karan Gupta, Advocate for the petitioners has submitted that on account of the interim orders passed by this court, the amount of compensation as per the award stands paid. The payment was made on different dates i.e. 12.08.2016, 07.09.2016 and 06.02.2017. He submits that the only issue which now requires redressal is the liability of payment of interest on account of the fact that the amount was received on 15.12.2014 from the Central Government for the award passed and was not transferred. The same was, however, not transferred to the land owners and the payment of the award was made on the subsequent dates once the petitioners approached this Court and when the initial order of notice of motion was passed on 08.07.2016.

The award was passed on 31.10.2014 (Annexure P-1) under the National Highway Act, 1956 by respondent No.3 for the

widening/four laning of the National Highway No.71 (52) on the stretch of the land from Km.181.805 to 238.695 (Sangrur to Punjab/Haryana Section) in District Sangrur and, accordingly, as per the amounts assessed a total compensation of ₹55,65,56,591/- was made payable, which included solatium and additional compensation etc.

As per the affidavit filed by Shri Bikramjit Singh Shergill, PCS, Sub-Divisional Magistrate-cum-Land Acquisition Collector-respondent No.3, the amount of compensation was received on 15.12.2014. It has been further averred that payments were made on different dates i.e. 12.08.2016 and 07.09.2016.

Counsel for the petitioners has, accordingly, submits that in CWP No.13170 of 2016, payments to petitioners No.1 and 5 to 8 were made on 12.08.2016 and to petitioners No.2 to 4 on 07.09.2016. Similarly, in CWP No.23701 of 2016, as per Annexure R-1, it is pointed out that the payments were made on 06.02.2017. In CWP No.16213 of 2016, in the affidavit filed by respondent No.3, it has also been admitted that payments were made on 07.09.2016 and effort has been made in the said affidavit to explain the delay in disbursing the amount on account of the discrepancy in the site map and in the field book.

It is, thus, apparent that the State Government was in receipt of the amount of compensation from 15.12.2014 onwards till the date of payments as noticed above, whereas the petitioners were deprived of the benefits of the award for over a period of 1 ½ years approximately in CWP Nos.13170 and 16213 of 2016 and for a period of 2 years 1 month

in CWP No.23701 of 2016.

In such circumstances, the liability of respondent No.3 to pay the interest @ 9% would arise, as the petitioners for no fault on their part have been denied their legitimate rights. Section 3H of the National Highways Act, 1956 provides that the amount determined under Section 3G is to be deposited by the Central Government in such manner as laid down by the rules with the competent authority before taking possession of the land. Under sub-Clause 2 of the said section, the amount deposited under sub-Section (1) with the competent authority is to be paid as soon as may be to the person or persons entitled thereto. Sub-Clause 5 further provides that where the arbitrator grants any amount in excess of the amount determined by the competent authority, interest is liable to be paid on such excess amount. Section 3H reads as under:-

“3H. Deposit and payment of amount.—

(1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original

jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 3G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent, per annum on such excess amount from the date of taking possession under section 3D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of subsections (2) to (4) shall apply to such deposit.”

In such circumstances, this Court is of the opinion that it is the liability of the respondent No.3 to pay interest on account of the delayed payment @ 9% per annum. Accordingly, directions are issued to the said respondent to pay the interest for the delayed payment to the petitioners concerned from 16.12.2014 till payment, as noticed above, within a period of one month from the receipt of the certified copy of this order. In case, the interest amount is not paid within a period of one month, the interest rate would go up to 12% per annum.

The writ petitions stand allowed, accordingly.

JANUARY 25, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No