

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) CWP No.12445 of 2018 (O&M)

Umed Singh & others ... Petitioners

Versus

National Highway Authority of India & others ... Respondents

(2) CWP No.15826 of 2018 (O&M)

Krishna & others ... Petitioners

Versus

National Highway Authority of India & others ... Respondents

(3) CWP No.15828 of 2018 (O&M)

Nafe Singh & others ... Petitioners

Versus

National Highway Authority of India & others ... Respondents

(4) CWP No.27502 of 2018 (O&M)

Rajesh Kumar & others ... Petitioners

Versus

National Highway Authority of India & others ... Respondents

(5) CWP No.30123 of 2018

Sohan Lal ... Petitioner

Versus

Union of India & others ... Respondents

Decided on : 29.11.2018

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

Present : Mr. Shailendra Jain, Sr.Advocate
with Ms.Anupama Arigala, Advocate, for the petitioners.

G.S. Sandhawalia, J. (Oral)

Applications for placing on record documents

Applications for placing on record affidavit along with
Annexures P-6 to P-9, are allowed, in view of the averments made in the

applications, duly supported by affidavit. Same are taken on record, subject to just exceptions. Office to append the same at appropriate place.

CMs stand disposed of.

CWP-12445, 15826, 15828, 27502 & 30123-2018

Challenge in the present writ petitions, filed under Articles 226/227 of the Constitution of India, is to the award dated 30.40.2012 (Annexure P-2), passed by the Land Acquisition Collector, whereby Rs.25 lakhs per acre had been awarded. The Arbitrator had, thereafter, dismissed the applications on 04.05.2016 (Annexure P-3).

Petitioners seek the statutory benefits as per the judgment of the Division Bench in **M/s Golden Iron & Steel Forgings Vs. Union of India & others 2011 (4) RCR (Civil) 375.**

It is the case of the petitioners themselves, as per para No.4 of the affidavit now placed on record that they have already filed objections under Section 34 of the Arbitration & Conciliation Act, 1996, before the District Judge, whereby the award (Annexure P-3) itself is subject matter of challenge. The relevant para reads as under:

“4. That against the said award dated 04.05.2016 (Annexure P-3) passed by respondent No.3, the landowner/claimants filed their respective objections/applications under section 34 of the Arbitration and Conciliation Act, 1996 (as amended upto date) seeking setting aside of the said award, dismissing their claim petitions for enhancement of compensation. In those objections/applications, the objectors/petitioners also raised the plea qua non award of the statutory benefits by the respondents No.3 and 4 in their respective awards, towards 1) Solatium

under section 34 (2) of the said Act, which is 30% of the market value; 2) Interest under section 28 of the said Act, which is 9% or 15% as applicable; 3) Additional Market Value as provided under section 23 (1A) of the said Act (12%). The said objections/applications of the respective petitioners are pending before the Ld. Principal Civil Court of ordinary jurisdiction.”

In such circumstances, filing of the present writ petitions before this Court is misconceived as a party cannot be permitted to avail two remedies against the same order at the same time. In similar circumstances, this Court in CWP-29431-2017 titled *Phool Singh Vs. National Highway Authority of India & others*, decided on 12.03.2018, has declined to entertain the writ petitions on the ground of alternative remedy being available, in view of the law laid down in **United Bank of India Vs. Satyawati Tondon and others, 2010 (8) SCC 110** on the principles of alternative remedy, which view has further been fortified in **Authorized Officer, State Bank ofr Travancore & another Vs. Mathew K.C. 2018 (3) SCC 85.** It is also to be noticed that in Phool Singh's case (supra), the award had been set aside twice by the District Judge and in such circumstances, the parties were relegated to their alternative remedy, which had already been preferred earlier.

In the present case, the matter is still pending before the District Judge and the petitioners have chosen to avail the remedy before this Court, which, on the face of it, would not be maintainable. Accordingly, in view of the above discussion, the present writ petitions are dismissed in limine.

November 29th, 2018

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Whether speaking/reasoned:

Whether Reportable:

(G.S.SANDHAWALIA)

JUDGE

Yes/No

Yes/No