

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

CWP No. 13700 of 2018
Date of decision: 28.05.2018

Dilbag Singh

....Petitioner(s)

Versus

Union of India and others

...Respondent(s)

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

Present: Mr. Parvinder Singh, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the order dated 16/28.02.2018 (Annexure P-4) passed by respondent no. 3 whereby the dispute has been referred to the Principal Civil Court of original jurisdiction in view of Section 3H(4) of the National Highways Act, 1956 (in short 'the Act') on account of a dispute arising to the apportionment of the amount or any part thereof or to any person to whom the amount has become payable.

The petitioner is aggrieved against the said order on the ground that the litigation has been initiated by respondent no. 4 which is in the form of civil suit for permanent injunction in which he is arrayed as defendant no. 2. Similarly, it is submitted that another suit filed for declaration by respondent no. 5-Jagtar Singh, brother of the petitioner, in which again the petitioner is arrayed as respondent no. 2, would not be relevant as the amount of compensation as such has been quantified and, therefore, has become payable.

Counsel for the petitioner has vehemently argued that suit for permanent injunction now stands dismissed vide judgment dated 14.12.2017

(Annexure P-8) and it is not an issue of title as such. However, it is very fairly pointed out that an appeal is also pending but no stay is there and accordingly he has argued that no question of title was pending.

It is to be noticed that respondent no. 4 had filed an application (Annexure P-9) with the official-respondent no. 3 that there was litigation *inter se* pending between the parties and, therefore, the compensation be not released on the application moved by the petitioner. It is in such circumstances that the competent authority has passed the order referring the matter to the Civil Court of original jurisdiction alongwith amount of compensation. The relevant provision i.e. Section 3H(4) of the Act reads thus:-

“(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.”

The argument as such which is raised by the counsel that the litigation as such does not concern him and he has an unfettered right to claim the amount of compensation which has been assessed, in such circumstances, would not be justified specially keeping in view the fact that the Division Bench in ***Nirmal Singh vs. UOI and others, 2012 (4) RCR (Civil) 44*** has held that the jurisdiction as such would be of the principal Court of original jurisdiction within the limits of whose jurisdiction the land is situated. The relevant portion reads thus:-

“8. It is true that the Act is a special statute which has clothed the Central Government with the power to acquire any land for a public purpose, which is

required for building, maintenance, management or operation of a national highway or part thereof. But many provisions of the Act are akin to the provisions of the Land Acquisition Act, 1894 (for brevity, 'the 1894 Act'). A perusal of Sections 3A, 3C and 3D of the Act would show that they are similar to Sections 4, 5A and 6 of the 1894 Act respectively in their contents and intendment. Even Section 3H(3) and (4) of the Act are somewhat similar to Sections 18 and 30 respectively of the 1894 Act. Likewise, further provisions like Sections 3H and 3G of the Act are equivalent to Sections 16 and 11 of the 1894 Act. Then it follows that the Competent Authority under the Act designated by respondent Nos. 1 and 2 would not be clothed with the power to adjudicate the claim of apportionment made by the parties in respect of the land for which notifications for acquisition have been issued under the Act. Under sub-section (3) of Section 3H of the Act, the Competent Authority may determine the persons who would be entitled to receive the amount payable to each of them where several persons make claim in respect of the amount deposited under sub-section (1) of Section 3H of the Act. This Section does not talk about any dispute between several claims, which in fact, has been specifically dealt with in sub-section (4) of Section 3H of the Act. Sub-section (4) of Section 3H of the Act opens with the words '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', then the Competent Authority nominated by the State Government like respondent No. 4 is under obligation to refer the dispute to the decision of the principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. Therefore, we are of the view that under the garb of

power to determine the persons who in the opinion of the Competent Authority would be entitled to receive the amount of compensation, which is in dispute, the Competent Authority could not have entered upon adjudication of the dispute and a reference should have been made to the Court of competent jurisdiction. Once the aforesaid legal position is clear from the reading of the provisions itself, the consequence of determining the apportionment between the petitioner and the private respondents have to be left to the adjudication of the District Judge.”

In such circumstances, it would not be appropriate for this Court to go into the thicket of the facts as to the entitlement of the land owners as to the amount of compensation and whether the litigation filed has any relevance or not. The petitioner has an alternative and efficacious remedy to get the matter adjudicated upon by the principal Court of original jurisdiction namely the District Judge, Nawanshahr.

Keeping in view the fact that the amount of compensation was determined on 03.05.2017 and has been duly deposited, the District Judge, Nawanshahr is requested that the matter be decided expeditiously preferably within 6 months from the date of receipt of certified copy of the order. The amount of compensation be kept in a Fixed Deposit Receipt to earn the highest amount of interest.

With the above said observations, the present writ petition stands disposed of.

28.05.2018
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No

