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

CWP No.19408 of 2018

Date of decision: 06.08.2018

M/s APPEJAY Global Industrial and Logistic Park Limited ...Petitioner

Versus

Competent Authority National Highway Authority of India and others

...Respondents

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

Present: Mr. C.M.Munjal, Advocate for the petitioner.

**Mr. Shivendra Swaropp, Assistant Advocate General,
Haryana for respondent no.1.**

G.S.SANDHAWALIA, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 5.3.2018 (Annexure P/9) passed by respondent no.1 whereby claim of the petitioner for grant of solatium and interest has been declined illegally and arbitrarily.

A perusal of the said order would go on to show that respondent no.1 rejected the claim on the ground that the matter had been compromised in **Golden Iron and Steel Forgings's case** before the Apex Court and therefore, it was not to be treated as precedent. It is further noticed that the Rehabilitation and Resettlement Act, 2013 had come into force on 1.1.2014 and therefore, the award announced earlier on 20.11.2012 was in accordance with law and the petitioner's claim was suffering from delay and laches and thus barred by limitation.

Notice of motion.

Mr. Shivendra Swaroop, Assistant Advocate General, Haryana accepts notice on behalf of respondent no.1 the contesting respondent.

The impugned order dated 5.3.2018 (Annexure P/9) is not sustainable keeping in view the fact that the Division Bench judgment of this Court in **M/s Golden Iron & Steel Forgings Vs. Union of India and others 2011(4) RCR 375** holds the field. On the issue of grant of solatium and interest, it is not disputed that the Apex Court in **Sunita Mehra and another Vs. Union of India and others 2016(8) Scale 582** has also held that in all pending proceedings till the date of decision of the Division Bench i.e. 28.3.2008, landowners were entitled for the said benefit of solatium and interest.

In such circumstances, the reasoning given by respondent no.1 is not justified in any manner and the impugned order dated 5.3.2018 (Annexure P/9) is quashed. However, another fact which has come on record is that against the award of the competent authority, the petitioner is already before the Arbitrator as per averments made in para no. 11 itself.

Keeping in view of the above, this Court is of the opinion that once the award of the competent authority is already subject matter of consideration before a higher Forum, it would be appropriate that the Arbitrator itself shall decide the issue of the claim of solatium and interest in view of the binding precedent of the Division Bench.

This Court in **Civil Writ Petition No.29431 of 2017-Phool**

Singh Vs. National Highway Authority of India & others decided on

12.3.2018 has already relegated landowners to their alternative remedies before the Court of original civil jurisdiction on the principle of law once there is an alternative remedy as such.

Accordingly, the present petition is disposed of with liberty to the petitioner to supplement its claim for solatium and interest before the Arbitrator, who shall take the decision on the same.

August 06, 2018

Pka

(G.S.SANDHAWALIA)

Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No