

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21859 of 2018
Date of Decision: 14.12.2018

Lakha Singh & Ors.

... Petitioners

VS.

Union of India & Ors.

... Respondents

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

Present: Mr. Rajinder Sharma, Advocate for the petitioners

G.S. SANDHAWALIA, J. (Oral)

The petitioners seek a writ in the nature of *certiorari*/mandamus directing the respondents to grant statutory benefits to them under Sections 23(1-A), 28 & 34 of the Land Acquisition Act, 1894. Their grouse is that vide supplementary award dated 20.07.2015 (P5), the petitioners have been given the benefit of *solatium* @ 30% for the land which was acquired under the National Highways Authority Act, 1956. It is their case that the benefit of interest has not been granted.

Reliance has been placed on the judgment rendered by the Division Bench in **M/s Golden Iron and Steel Forgings Vs. Union of India and others, 2011 (4) RCR (Civil) 375** as also the Apex court judgment in **Sunita Mehra vs. Union of India (2016) 8 SCALE 582** for the said relief. It is not disputed that the original award dated 21.12.2009 (P1) was passed by the Competent Authority against which they had approached the Arbitrator and thereafter, the District Judge under the Act who had dismissed their objections on 03.12.2016 (P2). In the interim period, they had approached this Court in **CWP No.18876 of 2013 (Lakha Singh & Ors. vs. Union of India & Ors.)** (P4) wherein the Division Bench on 29.08.2013 issued directions to consider their case in terms of the order passed in **CWP**

No.17041 of 2013 (Rakhwant Kaur vs. Union of India & Ors.) decided on 07.08.2013. It is in pursuance of the said directions that the petitioners have been given the benefit of *solatium* but the benefit of interest has been denied.

The procedure having been prescribed under the Act the petitioners have got an alternative and efficacious remedy under Section 3G(5) of the NHAI Act and thus this Court is loath to issue further directions. The relevant provisions i.e. Section 3G(5)&(6) of the NHAI Act reads as under:-

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to every arbitration under this Act.”

A perusal of the above-provisions would show that in case the petitioners are further not satisfied by what the Arbitrator grants, they can approach the District Judge under the Arbitration and Conciliation Act, 1996.

The Apex Court in **United Bank of India vs. Satyawati Tandon & Ors. (2010) 8 SCC 110** held that the writ jurisdiction is not to be exercised where the parties have an alternative and efficacious remedy as it is a discretionary power. The relevant portion reads as under:-

“30. The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

- (c) the petitioner has any alternative or effective remedy for the resolution of the dispute;*
- (d) person invoking the jurisdiction is guilty of unexplained delay and laches;*
- (e) ex facie barred by any laws of limitation;*
- (f) grant of relief is against public policy or barred by any valid law; and host of other factors.*

The Court in appropriate cases in its discretion may direct the State or its instrumentalities as the case may be to file proper affidavits placing all the relevant facts truly and accurately for the consideration of the Court and particularly in cases where public revenue and public interest are involved. Such directions are always required to be complied with by the State. No relief could be granted in a public law remedy as a matter of course only on the ground that the State did not file its counter-affidavit opposing the writ petition. Further, empty and self-defeating affidavits or statements of Government spokesmen by themselves do not form basis to grant any relief to a person in a public law remedy to which he is not otherwise entitled to in law."

Keeping in view the above, this Court is of the opinion that the requirement to call upon the respondents does not arise.

Resultantly, the writ petition is dismissed with liberty to the petitioners to agitate their grievances in accordance with law before the alternative forum, as provided under the Act.

Ordered accordingly.

14.12.2018

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(G.S. Sandhawalia)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes
No