

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

**Civil Writ Petition No.22424 of 2018
Decided on : 05.09.2018**

Ashok Kumar

... Petitioner

Versus

Union of India and others

... Respondent

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

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

G.S. Sandhawalia, J. (Oral)

The present writ petition filed under Article 226/227 of the Constitution of India is for seeking directions to the respondents to re-determine the compensation and revise the Award dated 07.11.2014 (Annexure P-1) passed by the competent authority, whereby the land was acquired under the provisions of National Highway Act, 1956 (for short 'the Act'). Claim of 100% solatium is also sought in view of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

Admittedly as per provisions of Section 3G (5) of the Act, if the amount determined by the competent authority is not acceptable to either of the parties, the same would be determined by the statutory arbitrator to be appointed by the Central Government. The said Section reads as under:-

“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.”

The petitioner would not be the only one who is aggrieved against the award and large number of persons have also been aggrieved whose land had been acquired from 8 villages, at the cost of ₹402,79,44,083/-. To entertain the present writ petition would mean by passing the statutory mandate as such provided under the Act, which further provides that the award of the Arbitrator can be challenged as per the provisions of the Arbitration and Conciliation Act, 1996.

In such circumstances, keeping in view the law laid down by the Apex Court in '**United Bank of India Vs. Satyawati Tondon and others**', 2010 (8) SCC 110 that where there is an alternative efficacious remedy available as such provided under the statutory provisions, this Court does not feel it is a fit case to call upon the other side as such to re-determine the compensation. The relevant portion of the said judgment reads as under:-

“44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.

45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass

interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance.”

Faced with this situation, counsel for the petitioner does not press the present writ petition and prays for liberty to avail his alternative remedy before the statutory arbitrator.

Accordingly, the present writ petition stands disposed of with the abovesaid liberty.

SEPTEMBER 05, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No