

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.29051 of 2018 (O&M)
Decided on : 29.11.2018

Sunehri Devi & another ... Petitioners
Versus
Union of India & others ... Respondents

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

Present : Mr.Vinod Bhardwaj, Advocate, for the petitioners.

G.S. Sandhawalia, J. (Oral)

CM-17997-CWP-2018

Application for placing on record copy of the site-plan as Annexure P-6, is allowed, in view of the averments made in the application, duly supported by affidavit. Same is taken on record, subject to just exceptions. Office to append the same at appropriate place.

CM stands disposed of.

CWP-29051-2018

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for quashing of the award dated 20.09.2018 (Annexure P-5), passed by District Revenue Officer (Land Acquisition)/respondent No.5, whereby, for the acquisition under the National Highways Act, 1956 (for short, '1956 Act'), the objections qua the house have been dismissed.

The primary plank of the argument of counsel for the petitioners, as such, is that compensation should be given for the entire house as the National Highway would only acquire part of the house only which they would demolish to make way for the infrastructure which is to come up. In principal, the acquisition proceedings, as such, have not been challenged.

The said respondent has held that the compensation amount would be paid as per the rules of the Government for the houses, tubewell, trees falling under the land, while rejecting the demand, as such, that compensation should be given for the whole house since part of it is sought to be acquired.

The order has been passed under Section 3-C of the 1956 Act and the formal determination of the amount payable as compensation has to be done under Section 3-G. If the petitioners are not satisfied with the amount which will be determined by the competent authority, they will have a further right of appeal to the Arbitrator under Section 3-G (5). Similarly, if still not satisfied, they could further approach the Civil Court of Original Jurisdiction, as per the provisions of the Arbitration & Conciliation Act, 1996, under Section 3-G (6) of the 1956 Act. The issue of valuation and the loss suffered by the petitioners are disputed questions of fact which are not to be gone into by the Writ Court and the remedy of the petitioners lies elsewhere.

The principle of severability would also come into play on account of the acquisition of the part of the house which are also to be kept in mind by the competent authorities, while deciding the amount of compensation which will be payable to the petitioners. In such circumstances, this Court is of the opinion that it is for the petitioners to raise all these issues before the competent authorities, in accordance with law, to claim the amount of damages on being adversely affected as part of the house will be demolished on account of the acquisition and

disturbing the usage of the house which has been constructed on the land owned by the petitioners, which is clear from the photographs (Annexure P-2).

In such circumstances, the present writ petition is disposed of, with the aforesaid liberty to the petitioners, to raise all the objections before the competent authorities, in accordance with law.

November 29th, 2018
sailesh

(G.S.SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*