

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

**Civil Writ Petition No.29287 of 2018
Decided on : 20.11.2018**

Abhay Sagar Gupta

... Petitioner

Versus

Union of India and others

... Respondents

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

Present : Mr. Manoj Sharma, Advocate for the petitioner.

G.S. Sandhawalia, J. (Oral)

After arguing for sometime, counsel is not in a position to press the present writ petition filed under Article 226/227 of the Constitution of India, whereby re-determination of compensation/benefits of acquisition of his land has been prayed for. Vide the Award dated 24.12.2013 (Annexure P-7) passed by Land Acquisition Officer-respondent No.2, the market value of various categories of land in question has been fixed.

Under the provisions of Section 3G (5) of the National Highway Act, 1956, 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.”

Thus, there is an alternative efficacious remedy available to the petitioner and the writ jurisdiction of this Court is not to be exercised, in view of the law laid down by the Apex Court in '**United Bank of India Vs.**

Satyawati Tondon and others', 2010 (8) SCC 110. 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.

NOVEMBER 20, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No