IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision : 12.11.2018

219 **FAO No.3732 of 2014 (O&M)**

Union of India and another

...... Appellants

Versus

Gopal Singh and others

...... Respondents

220 **FAO No.4686 of 2014 (O&M)**

Union of India and another

...... Appellants

Versus

Jas Pal and others

...... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

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Present : Mr. R.S.Madan, Advocate
for the appellants (in both cases).

Ms. Amarjit Kaur Khurana, DAG, Punjab.

Mr. Harish Mahajan, Advocate
for the respondents.

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AJAY TEWARI, J. (Oral)

This order shall dispose of above mentioned two appeals.

FAO No.3732 of 2014 has been filed against the judgment and order dated 13.02.2014 passed by the Additional District Judge, Jalandhar dismissing the objections moved under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') by the appellants-National Highway Authority (NHAI) of India against the award dated 27.01.2011.

And **FAO No.4686 of 2014** has been filed against the judgment and order dated 20.03.2014 passed by the Additional District Judge, Jalandhar dismissing the objections moved under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') by the appellants-National Highway Authority (NHAI) of India against the award dated 05.10.2010.

The Arbitrator awarded a sum of Rs.55,000/- per marla in **FAO No.3732 of 2014** and Rs.65,000/- per marla in **FAO No.4686 of 2014**. Objections were filed before the Additional District Judge, Jalandhar. Ultimately, the Court having dismissed the objections the present appeals have been filed.

Counsel for the appellants-NHAI has vehemently argued that the Arbitrator increased the compensation on completely conjectural basis and did not take into account any sale deed. It is against this backdrop of fact that this case has to be decided. No doubt that the indicator of market value is sale deeds of the area, but here is a case where even the appellants-NHAI has not placed on record any sale deed to show what was the actual rate of the land. Can it be because the rate of the land as per the sale deeds may be even higher? Who knows! Moreover, this has to be viewed in the context that the appellants did not even file a reply to the claim which was filed by the respondents before the Arbitrator. He has relied upon ***Bhupal Singh and others Vs. State of Haryana, 2015 (2)***

RCR (Civil) 634 in that case also there were no sale instances and the Supreme Court held as follows :-

> *"18. Keeping the aforesaid principles in mind, we have perused the evidence in these cases. It is not in dispute that the acquisition of land in question was made in the year 1977 and it was for a large chunk of undeveloped agriculture land. It is also not in dispute that it was for construction of "residential purpose". It is further not in dispute that the appellants did not file any sale deed in evidence in support of their case to prove the fair market value of the acquired land. All that they adduced was an oral evidence of some witnesses to prove the potentiality of the lands by showing its location, proximity to the main road which was passing in the area and named some industries and hospitals operating in the nearby areas of the acquired lands etc."*

And then went on to hold :-

> " *26. We have arrived at the figure of "Rs.63/- per sq. yard" after applying all relevant factors, which we have mentioned above. In our view, the rate determined by this Court is just, reasonable and represents fair market value of the lands in question on the date of acquisition. Indeed, in such cases, one can never come to any exact figure of price of lands because in the very nature of things, the prices are bound to vary from land to land and further they also depend upon the individual buyer-to- buyer, seller-to-seller and the reasons which led to such sale and purchase. However, Courts in such cases always exercise their discretion within the permissible parameters after appreciating the entire evidence brought on record and applying the relevant legal principles. We have kept these factors in mind."*

I have gone through the awards of the Arbitrator. The Arbitrator noticed that the competent authority had awarded the compensation as per the Collector rate.

Counsel for the appellants-NHAI is not in a position to dispute that the Collector rate is not the market value. Resultantly, the sum awarded by the competent authority also has to be ignored. The award of the Arbitrator contains reasons which can not be said to be completely extraneous or irrelevant.

In the circumstances, the valuation of the land is accepted.

Counsel for the appellants states that the amount of Rs.2.00 lacs paid in ***FAO No.3732 of 2014*** and Rs.1.00 lakh paid in ***FAO No.4686 of 2014*** for severance charges is highly unjustified because there was no severance in fact. Counsel for the respondents, however, points out that this may be correct yet no solatium was paid and this fact has been accepted by counsel for the appellants.

In the circumstances, it is directed that the amount of Rs.1.00 lakh be deducted but 30% is to be paid as solatium.

His last argument is that the award of interest @9%, 15% and 18% is not in consonance with the provision of Section 34 of the Land Acquisition Act, 1894 (for short Act) as held by a division Bench of this Court in ***M/s Golden Iron and Steel Forging Vs. Union of India and others, 2011 (4) RCR (Civil) 375*** and in ***FAO No.6151 of 2014*** titled as ***Union of India and another Vs. Gurudwara Sahib Ji and others***, decided on 17.11.2016. I find merit in this argument and hold that the land owners are entitled to interest only as per Section 28 of Act.

With this modification in the interest component the appeals are dismissed.

Since the main cases have been decided, the pending Civil Miscellaneous Applications, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

12.11.2018
pooja sharma-I

Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No