

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-359-2018

Date of decision: 26.07.2018

Padam Chawla

....Petitioner

Versus

Union of India & others

...Respondents

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

Present: Mr.R.K.S.Verka, Advocate, for the petitioners.

Mr.Karan Singh, Advocate, for UOI.

Mr.D.K.Singhal, Advocate

Mr.Rishi Kaushal, Advocate

Mr.Ish Puneet Singh, Advocate

Ms.Sonia Madan, Advocate, for

Mr.R.S.Madan, Advocate, for NHAI.

Mr.P.S.Bajwa, Addl.A.G., Punjab.

G.S. SANDHAWALIA, J. (Oral)

The present judgment shall dispose of 7 writ petitions, bearing CWP-359, 5022, 5086, 9542, 9561, 13688 & 16195-2018, involving common questions of law and facts. However, to dictate orders, facts have been taken from CWP-359-2018 titled *Padam Chawla Vs. Union of India & others*.

Prayer in the present writ petitions is for grant of solatium and interest as per provisions of Section 23 (1-A), 23 (2), 28 & 34 of the Land Acquisition Act, 1894 (for short, the 'Act'). Said claim is primarily based upon the judgment of the Division Bench of this Court in **M/s Golden Iron & Steel Forgings Vs. Union of India & others 2011 (4) RCR (Civil) 375.**

The award in question is dated 31.05.2010, for the lands falling

in Village Verka, Tehsil & District Amritsar. The respondent-National Highway Authority of India (NHAI), in their reply, have relied upon the details given in the award itself, to submit that the said benefits have already been granted. Relevant pleadings read as under:

“2. That it is apparent from the annexure P-1 award dated 31.05.2010 and annexure P-2 clearly states that “collector rates have been extrapolated by adopting 10% annual increase to arrive at collector rate for year 2008-09 and further Punjab formula of 30% solatium and 12% additional interest from 3A notification to the date of award i.e. 31st May 2010.”

Counsel for the petitioners, on the other hand, submits that in similar circumstances, in CWP-10953-2014 titled *Swaran Singh & others Vs. Union of India & others*, pertaining to Village Verka, District Amritsar and pertaining to the same award dated 31.05.2010, a similar plea was taken and the Division Bench, on 03.11.2017, passed the following order:

“Pursuant to the orders passed by this Court on 29.05.2014 in CWP No.10953 of 2014, the amount of enhanced solatium and interest has been deposited by NHAI in FDR in a Nationalized Bank. The release of the said amount in favour of expropriated landowners was stayed by this Court for the reason that the controversy in the main case, namely, Civil Appeal No.8872-8873 of 2013 (Union of India vs. M/s Golden Iron & Steel Forging) was still sub judice before the Hon'ble Supreme Court. The said SLP has since been disposed of by the Apex Court vide order dated 03.08.2017 (A9). Consequently, the applicants seek release of the amount lying in the FDRs.

NHAI has now come up with a new stand without any supporting material on record, to say that the due amount of

solatium and interest has already been paid to the applicants.

We have serious doubts on the tall claim made by NHAI which is prima facie contrary to the record.

Be that as it may, the applicant/petitioners have been held entitled to payment of additional amount of solatium/interest by Sub Divisional Magistrate-cum-Competent Authority-cum-Land Acquisition Collector, Amritsar vide order dated 20.07.2015. We thus direct the Project Director, NHAI to file an affidavit along with statement of accounts before the Sub Divisional Magistrate-cum-Competent Authority-cum-Land Acquisition Collector, Amritsar, who shall verify as to whether or not the applicant/petitioner(s) have been paid full amount of interest/solatium as awarded by this Court. In case it is found that the plea taken by NHAI is contrary to the record, the FDRs shall be ordered to be released in favour of the applicant/petitioners along with interest accrued thereupon besides cost of 50000/-. The Sub Divisional Magistrate-cum-Competent Authority-cum-Land Acquisition Collector, Amritsar shall decide issues within one month. The parties are directed to appear before the above-stated Authority on 15.11.2017.

Disposed of.”

It is, accordingly, submitted that in pursuance of the said directions, whereby the SDM had to verify whether if the amounts have been paid of interest and solatium, in pursuance of the said exercise, benefits have been given on 14.12.2017 by the SDM.

On the other hand, Mr.Kaushal has held out that the award of the SDM is, now, subject matter of appeal before the Arbitrator.

Accordingly, keeping in view the above facts, the present writ petitions are also disposed of and similar directions are issued to the

CWP-359-2018 & others connected cases

SDM/respondent No.3, to undertake the said exercise and examine the award in its true perspective and come to the conclusion that whether the amount of solatium and interest has been paid, as payable, in view of the judgment of the Division Bench in **M/s Golden Iron & Steel Forgings** (supra). In case the amount is still found payable, the SDM shall pass appropriate orders, within a period of 2 months from the receipt of the certified copy of this order. Needless to say, it is made clear that it is open to both sides to challenge the findings of the SDM, in accordance with law.

26.07.2018

Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*