HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.4789 of 2018
Date of Decision: 29.11.2018

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Gurbachan Kaur (deceased) *through LR* ... Petitioner

VS.

Union of India & Ors. ... Respondents

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

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Present: Mr. Satbir Rathore, Advocate for the petitioner(s)
Mr. Rishi Kaushal, Advocate for respondents No.1&2
Ms. Simran Grewal Randhawa, AAG Punjab

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G.S. SANDHAWALIA, J. (Oral)

The petitioner seeks the benefit of *solatium* and interest under Article 226/227 of the Constitution of India as per the law laid down by the Division Bench in ***M/s Golden Iron and Steel Forgings Vs. Union of India and others, 2011 (4) RCR (Civil) 375***. The land measuring 2 marlas comprising Khasra No.97 situated in village Chak Alabaksh, Tehsil Mukerian, District Hoshiarpur of the petitioner was acquired for which compensation of ₹ 3,61,000/- was made by the competent authority – respondent No.3 in the year 2009 (P1), under the provisions of the National Highway Authority Act, 1956.

Counsels have agreed that the award in question whereby the land was acquired in the present set of case was dated 14.12.2007 but was finalized on 23.04.2008. It is accordingly submitted that the matter would be covered by the decision of this Court rendered in ***Waryam Singh vs. Union of India & Ors. (CWP No.20048 of 2018)*** decided on 15.11.2018. The relevant portion reads as under:-

> *"(15) Resultantly, this Court is of the opinion that the delay as such would not come in the way and the alternative remedy issue also would not be a bar as such in these sets of*

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cases. Since the petitioners have chosen not to further agitate for enhancement before the Arbitrator and have categorically averred in para-3 of the writ petition and once the matter stands settled by the Apex Court in holding that where the proceedings are pending on the date of order of the Division Bench, the benefit would accrue to the landowners. In the present case the proceedings were pending on July 2009 and this Court is of the opinion that the petitioner(s) would also be entitled to the benefit of solatium and interest on the amount awarded. The same would be payable till July, 2009 when the payments were disbursed on the main amount. Interest thereafter is being denied till the payment in view of the above facts and circumstances.

(16) The judgment in ***Phool Singh's*** *case would not be applicable in the facts and circumstances since in that case, it has been noticed that the landowners had been repeatedly getting the award of the Arbitrator set aside before the Additional District Judge. Therefore they could not be permitted to change track and forum and approach this Court and in the facts and circumstances, they were relegated to the alternative remedy which is not the case herein.*

(17) Accordingly the present writ petitions are allowed and the competent authority is directed to pay the amount of solatium and interest in terms of the provisions of Sections

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23(2) and 28 of the 1894 Act within three months from the date of receipt of certified copy of this order. The said NHAI shall then disburse the amount into the bank accounts of the landowners expeditiously thereafter.

(18) Ordered accordingly."

Accordingly, the present writ petition is disposed of in the above-reproduced terms.

Ordered accordingly.

29.11.2018 **(G.S. Sandhawalia)**
vvishal **Judge**

1. Whether speaking/reasoned? ***Yes***
2. Whether reportable? *No*

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