

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

116

FAO-6715-2018 (O&M)
Date of Decision : 12.11.2018

Union of India and another

....Appellants

vs.

Tarsem Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.D.K.Singal, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

Notice of motion.

Mr. Satbir Rathore, Advocate and Mr. Harish Mahajan,

Advocate has entered appearance on behalf of the respondents No.1 to 3

On 25.10.2018 the following order was passed :-

“This dispute arises out of the acquisition carried out by the National highways for stretch of roads from Km. 26.00 to Km.117.20 of N.H. 1-A. The authority has taken seven years to challenge the Award. Learned counsel is directed to place on record information regarding the Award passed under this acquisition; the details of payments which may have been made; the details of other cases which may have been filed and the details of other cases which have been filed against this acquisition.

Adjourned to 12.11.2018.”

Even today learned counsel has not placed on record any information on the different points which was required on the last date of hearing.

Counsel for the respondents No. 1 to 3 state that in one award of the adjoining land in Harshi Pind Tehsil Dausya, District Hoshiarpur, passed in **MA 471/2009 Lekh Raj and others vs. UOI and others** decided on 25.1.2011, the National Highway Authority of India has not even bothered to file objections and rather satisfied the award. The contention of counsel for the appellant is that non filing of the objections in that case was an administrative goof-up and prays that this case be decided on merits. I am afraid that this argument cannot cut much ice. The National Highway Authority of India is one of the entities which would be covered by the expression 'State' under Article 12 of the Constitution and it cannot be permitted to pick and choose in which case it would challenge the compensation and in which case it would not challenge the compensation, specially when adjoining land was acquired vide same notification by the same authority for the same purpose. Resultantly, the appeal against valuation of the land is rejected.

There are however two glaring errors. One, grant of severance and second, grant of 18% interest if the awarded amount is not paid within six months. Admittedly, there is no severance and admittedly, the interest had to be paid in terms of the Division Bench Judgment of this Court passed in **M/s Golden Iron and Steel Forging vs. Union of India and others 2011 (4) RCR (Civil) 375**. Counsel for the respondents are not in a position to justify how the severance amount could be paid when there is actually no severance or how 18% interest per annum could be awarded. In the circumstances, the awarded amount under severance and the stipulation of conditional interest @ 18% per annum is set aside.

Counsel for the respondents however states that if the counsel for the appellants is relying upon the principles enunciated in the judgment of Golden Iron (supra) then they should in all fairness pay solatium at the same rate. Counsel for the appellants has then countered by arguing that land owners are not in appeal. Be that as it may. It cannot be lost sight of that compensation for acquired land is beneficial legislation and if the appellants-authority is relying upon a particular decision and contending that that decision is the basis for computing the compensation then it cannot cherry-pick those portions of the decision which are in its favour and ignore those portions which are not in its favour.

In the circumstances, I also direct payment of solatium @ 30% as laid down in Golden Iron' case (supra).

Consequently, the appeal is disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

12.11.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No