

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.223 of 2019

Date of Decision: 10.01.2019

Makhan Singh

... Petitioner

VS.

Union of India & Ors.

... Respondents

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

Present: Mr. VK Sandhir, Advocate for the petitioner

G.S. SANDHAWALIA, J. (Oral)

(1) The petitioner challenges the award dated 10.10.2014 (P4) passed by the respondent No.2 on the ground that the compensation for commercial property of the petitioner has not been granted and the land has been assessed as agricultural land.

(2) A perusal of the award would go on to show that respondent No.2 was exercising the powers under the National Highways Authority Act, 1956 on account of which the land was acquired for the National Highway No.15 on the Tarn Taran stretch of land from KM 123.100 to 147.500 km. Under Section 3G(5) of the Act, if the amount is not acceptable as determined by the Competent Authority, the application can be preferred before the Arbitrator to be appointed by the Central Government. Sub-Section (5) of Section 3G reads as under:-

(5) 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.

(3) In view of the alternative remedy available to the petitioner, this Court is of the opinion that in the light of the law laid down in **United Bank of India vs. Satyawati Tandon & Ors. (2010) 8 SCC 110** whereby the Apex Court has held that the writ jurisdiction is not to be exercised where the parties have an alternative and efficacious remedy as it is a discretionary power, the writ petition on the face of it is not maintainable. The relevant portion reads as under:-

“30. The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.

The Court in appropriate cases in its discretion may direct the State or its instrumentalities as the case may be to file proper affidavits placing all the relevant facts truly and accurately for the consideration of the Court and particularly in cases where public revenue and public interest are involved. Such directions are always required to be complied with by the State. No relief could be granted in a public law remedy as a matter of course only on the ground that the State did not file its counter-affidavit opposing the writ petition. Further, empty and self-defeating affidavits or statements of Government spokesmen by themselves do not form basis to grant any relief to a person in a public law remedy to which he is not otherwise entitled to in law.”

(4) Faced with this situation, counsel for the petitioner does not press this writ petition and prays that the petitioner may be permitted to avail the alternative remedy before the statutory Arbitrator.

(5) Accordingly, the writ petition is disposed of with above-said liberty.

10.01.2019

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(G.S. Sandhawalia)
Judge

1. Whether speaking/reasoned?

Yes

2. Whether reportable?

No