

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: July 17, 2019

1. *CWP-14237-2019*

Pritam Singh

.... Petitioner

Versus

State of Punjab and others

... Respondents

2. *CWP-14340-2019*

Baldev Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

3. *CWP-14352-2019*

Sandeep Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

4. *CWP-14373-2019*

Iqbal Singh & another

... Petitioners

Versus

State of Punjab and others

... Respondents

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

Present: Mr. Gurmeet Singh and Mr. Anureet S. Sidhu, Advocates,
for the petitioner(s).

G.S. Sandhawalia, J. (Oral)

The present order shall disposed of four writ petitions i.e. Civil Writ Petition Nos. 14237, 14340, 14352 and 14373 of 2019 as the common question of law and facts are involved.

Petitioner in the present writ petition under Articles 226/227 of the Constitution of India seeking the benefit of compensation in a fair manner by taking into account the nature of property, loss suffered and further taking into account the constructed portion of the shop which has been demolished. For the parking area (for which no mention has been made) in the award proper measurement has been sought.

Admittedly, the acquisition has been initiated under the provisions of the National Highways Act, 1956. Initially, it seems that the matter was referred to the Civil Court by the Land Acquisition Collector, Moga, for determination of the specific amounts to be paid to the individuals. The Additional District Judge, Moga, vide order dated 01.12.2018 (Annexure P/4) recorded the statement of the Sub Divisional Magistrate that there was no person other than the owners of the acquired land who has raised any objection with regard to the disbursement of compensation amount. Resultantly, it was directed that the compensation to the recorded owners as per the revenue record be paid to the owners within a period of two months to the said date. Reference petition, accordingly, was dismissed as withdrawn.

It is, thus, apparent that reference had been wrongly made to

the Civil Court under Section 3H(4) of the National Highways Act, 1956, as there was no dispute qua the apportionment issue regarding the shares. The dispute as noticed above is qua the quantum of compensation and nature of property whether it is commercial or residential and the area which has been taken into possession. These facts are all disputed questions as such and the matter cannot be agitated in writ Court at the first instance which is as per settled principle. Even otherwise under Section 3G(5) of the National Highways Act, if the amount determined is not acceptable by the parties, the amount shall be determined by the arbitrator to be appointed by the Central Government. There is further provision that under Sub-Section (6) of the Act, which would give remedy to approach the District Judge also. Section 3G(5) and (6) 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.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.”

It is, thus, apparent that petitioner has an alternative remedy, as such for redressal of his grievance. It is settled principle of law that the writ Court would not exercise its jurisdiction once there is alternative and efficacious remedy available. Reliance can be made to the judgment of the Apex Court in ***United Bank of India vs. Satyawati Tondon and others, (2010) 8 SCC 110.***

Faced with this situation, counsel for the petitioner does not

press the present writ petitions and thus, prays for liberty to approach the statutory Arbitrator for the relief claimed on behalf of the petitioner.

Accordingly, all the afore-mentioned four writ petitions are disposed of as not pressed, with the aforesaid liberty to the petitioner(s) in accordance with law.

July 17, 2019
vkd

(G.S. Sandhawalia)
Judge

Whether speaking / reasoned : Yes

Whether reportable : No