

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

205

**CWP No.14191 of 2018 (O&M)
Decided on : 03.12.2019**

Charanjit Kaur

... Petitioner

Versus

Union of India and others

... Respondents

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

Present: Mr. Ravish Bansal, Advocate for the petitioner.

Ms. Anita Balyan, Advocate for
Mr. B.S. Kanwar, Advocate for respondents No.1 & 4.

Ms. Ambika Bedi, AAG, Punjab.

Mr. D.K. Singal, Advocate for respondent No.3-NHAI.

G.S. Sandhawalia, J. (Oral)

The petitioner in the present writ petition filed under Articles 226/227 of the Constitution of India seeks directions in the nature of mandamus, to refer the petition under Section 3-H (3) & (4) of the National Highways Act, 1956 (for short 'the Act'), to the Principal Civil Court of Original Jurisdiction, so that the issue of apportionment can be decided.

It is not disputed that the amounts have already been disbursed, which was noticed while issuing notice of motion on 30.05.2018. The categorical pleadings as such in paragraph Nos.13 to 15 of the writ petition are that a representation had been filed on 28.03.2018 (Annexure P-6) for payment of compensation in accordance of her share out of the acquired land. A representation dated 16.04.2018 (Annexure P-7) for payment of compensation and to refer the petition

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-2-

filed under Section 3-H (3) & (4) of the Act, to the Principal Civil Court of Original Jurisdiction, had also been filed. It has further been averred that requests have been made and the authorities have been contacted to give date of hearing and issue notice to the respondents in Annexure P-7, who would be the co-sharers and who have received the compensation.

The response of respondent No.2 in the written statement filed is that the claimant is not appearing and the award had been passed by inviting the landowners concerned. It is, however, admitted that where a dispute arises, the matter is to be referred to the Civil Court under 3-H (4) of the Act. The averments in paragraph Nos.14 & 15 of the written statement, are stated to be a matter of record, regarding the inaction to refer the same.

In such circumstances, it is apparent that the matter has not been referred to the Civil Court, as per the mandate of the said section. The law stands settled without any anvil of doubt by the Division Bench in '**Nirmal Singh Vs. Union of India**', 2012 (4) RCR (Civil) 44.

Accordingly, the present writ petition is allowed. The Land Acquisition Collector-respondent No.2 shall refer the dispute to the Civil Court of competent jurisdiction, within a period of one month from the receipt of the certified copy of this order.

DECEMBER 03, 2019

Naveen

Whether speaking/reasoned:
Whether Reportable:

**(G.S. SANDHAWALIA)
JUDGE**

Yes/No
Yes/No