

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

CWP-15235-2018

Date of decision: 13.02.2019

Ved Prakash & others

....Petitioners

Versus

Sub-Divisional Officer (C)-cum-Competent Authority, SFCCIL, Palwal & others

...Respondents

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

Present: Mr.Garvit Kalra, Advocate, for
Mr.Tanmoy Gupta, Advocate, for the petitioners.

Ms.Vibha Tewari, AAG, Haryana, for respondent No.1.

Mr.Chetan Mittal, Sr.Advocate
with Mr.Vivek Singla, Advocate, for respondent No.2.

Mr.Shailender Kahsyap, Advocate, for respondent No.3.

G.S. SANDHAWALIA, J. (Oral)

Prayer in the present writ petition is for quashing of the award dated 05.09.2017 (Annexure P-4), passed by respondent No.1, the Competent Authority, whereby, vide the supplementary award, issued under the Railways Act, 1989 (for short, the 'Act'), certain amounts were assessed on account of fruit trees and structures. Challenge has also been raised to the recovery notice dated 04.10.2017 (Annexure P-3) whereby a sum of Rs.33,82,982/- has been sought to be recovered which has been distributed in excess to the supplementary award No.2 and the horticulture award.

Petitioners have also served a legal notice dated 26.02.2018 (Annexure P-5) that they have not been given reasonable opportunity of hearing and therefore, the said notice be withdrawn, but to no avail and the respondents have also managed to recover part of the amount. Resultantly, the present writ petition has been filed.

Under Section 20F(6) of the Act, if the amount is not acceptable

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to either of the parties, as determined by the Competent Authority under Sub-section (1), the same is to be determined by the Arbitrator appointed by the Central Government, in such manner as may be prescribed, on an application moved by either of the parties. Section 20F(6) reads as under:

20F Determination of amount payable at compensation. —

xxxx xxxx xxxx

(6) If the amount determined by the competent authority under sub-section (1) or as the case may be sub-section (3) 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 in such manner as may be prescribed.

Thus, for the first relief, the petitioner has an alternative and efficacious remedy, to approach the Arbitrator, if he is aggrieved against the amount of compensation, as determined by respondent No.1.

Qua the second relief regarding the recovery notice on account of excess payment, it shall be open to the petitioners to approach the said respondent and justify the amount which has been received by them, in pursuance of the awards passed. Respondent No.1 shall, thereafter, pass a reasoned order giving details regarding how much land of the petitioners was acquired along with the structures and fruit trees and how much in excess the petitioners have received. The said exercise shall be completed after hearing the petitioners or their authorized representative(s), within a period of 3 months from today. Till the passing of the order, further recovery shall not be effected from the petitioners. Needless to say in case any adverse order is passed, it will be open to the petitioners to challenge the same in accordance with law.

Writ petition stands disposed of, in the above-said terms.

13.02.2019
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No