

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

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(1) **CWP No.24043 of 2017**
Gail India Ltd., Annexe Building, Udyog Bhawan, Himalya Marg, Sector-
17, ChandigarhPetitioner

Versus

Paramjit Kaur and anotherRespondents

and

(2) **CWP No.24921 of 2017**

Gail India Ltd., Annexe Building, Udyog Bhawan, Himalya Marg, Sector-
17, ChandigarhPetitioner

Versus

Rupinder Singh and othersRespondents

and

(3) **CWP No.25201 of 2017**

Gail India Ltd., Annexe Building, Udyog Bhawan, Himalya Marg, Sector-
17, ChandigarhPetitioner

Versus

Surinder Pal Singh and othersRespondents

(4) **CWP No.25202 of 2017**

Gail India Ltd., Annexe Building, Udyog Bhawan, Himalya Marg, Sector-
17, ChandigarhPetitioner

Versus

Davinder Singh and othersRespondents

Date of Decision:23.04.2019

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

Present: Mr. Balwinder Singh Jolly, Advocate
for the petitioner.

None for the respondents.

G.S. SANDHAWALIA, J. (ORAL)

The present order shall dispose of CWP Nos.24043, 24921, 25201 and 25202 of 2017. The facts have been taken from CWP No.24043 of 2017 as common questions of law and facts are involved.

The respondents have chosen not to put in appearance in spite of service having been effected.

Petitioner challenges the order dated 03.07.2017 (Annexure P-1) passed by the learned Additional District Judge, Ludhiana under Section 10(2) of the Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (for short, the Act). Vide the impugned order the appointment of respondent No.2 Competent Authority was set aside and the Union of India was directed to appoint another unbiased person in place of Sh. Gagandeep Singh for determination of compensation payable to the petitioners and even the award passed by the said respondent on 30.11.2011 was set aside.

The judgment passed is based upon the judgment of the Apex Court in **Trilok Sudhirbhai Pandya Vs. Union of India and others, 2012 AIR (SC) 1668:2011(12) SCR 1106** wherein the Apex Court as such had set aside the appointment of retired Deputy Collector Shri V.I. Gohil, who was appointed as the Competent Authority under the Act. The issue which had arisen in the said case was that the landowners had filed claims for compensation under Section 10 of the Act before the Competent Authority and preliminary objections had been raised to the sitting of the Competent Authority at the premises of respondent No.4-Company in view of the fact that the claim for compensation was in respect of the acquisition of right of user for the project of the respondent No.4. The writ petition had been filed

before the High Court of Gujarat challenging the appointment notifying the said person as the Competent Authority on the ground of bias, which had been dismissed. Resultantly, vide the judgment, the Apex Court came to the conclusion that the apprehension as such was justified as the Competent Authority was likely to act with bias while determining the compensation payable to the appellants and directions were given to Union of India to appoint a unbiased person for determining the compensation payable to the appellants. The said judgment would have no applicability in the facts and circumstances of the present case.

The Additional District Judge has gone astray as such and digressed from the main controversy while allowing the application under Section 10(2) which was filed by the landowners for determining the compensation. It is a matter of record that vide award dated 30.11.2011 wherein the market value had been assessed @ Rs.25 lacs per acre and compensation @ 10% of the total cost of land had been offered which is in consonance with Section 10(4) of the Act. Aggrieved against the said award, petition had filed under Section 10(2) on the ground that the report of Naib Tehsildar, SDM and Collector of the area had not been taken and the value of the land had not been properly assessed. It was thus claimed in the petition under Section 10(2) of the Act that the cost of the land on the other side and in the adjoining village was assessed @ Rs.55 lakhs per acre and the amount paid to the landowners for the user was Rs.5,05,000/- per acre which has caused discrimination while determining the compensation for the pipeline/project. Value of the land was thus claimed to be not less than Rs.80 lakhs per acre for village Majri, Sub Tehsil Dehlon, District Ludhiana.

The issues which were framed by the Additional District Judge, Ludhiana on 06.12.2012 were as under:-

- i. Whether the applicant is entitled to enhancement of compensation with respect to his land acquired by the respondents, if so, to what extent? OPA
- ii. Whether the application has not been filed through a competent person, its effect? OPR
- iii. Relief.

Thus from the above it would be clear that the dispute *inter se* parties was as to the quantum of compensation which was payable to the landowners as per the provisions of the Act. Section 10 of the Act reads as under:-

10. Compensation.

(1) Where in the exercise of the powers conferred by section 4, section 7 or section 8 by any person, any damage, loss or injury is sustained by any person interested in the land under which the pipeline is proposed to be, or is being, or has been laid, the Central Government, the State Government or the corporation, as the case may be, shall be liable to pay compensation to such person for such damage, loss or injury, the amount of which shall be determined by the competent authority in the first instance.

(2) If the amount of compensation determined by the competent authority under sub- section (1) is not acceptable to either of the parties, the amount of compensation shall, on application by either of the parties to the District Judge within the limits of whose jurisdiction the land or any part thereof is situated, be determined by that District Judge.

(3) The competent authority or the District Judge while determining the compensation under sub- section (1) or sub- section (2), as the case may be, shall have due regard to the damage or loss sustained by any person interested in the land by reason of-

(i) the removal of trees or standing crops, if any, on the land while exercising the powers under section 4, section 7 or section 8;

(ii) the temporary severance of the land under which the pipeline has been laid from other lands belonging to, or in the occupation of, such person;

or

(iii) any injury to any other property, whether movable or immovable, or the earnings of such persons caused in any other manner:

Provided that in determining the compensation no account shall be taken of any structure or other improvement made in the land after the date of the notification under sub- section (1) of section 3.

(4) Where the right of user of any land has vested in the Central Government, the State Government or the corporation, the Central Government, the State Government or the Corporation, as the case may be, shall, in addition to the compensation, if any, payable under sub- section (1), be liable to pay to the owner and to any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such vesting, compensation calculated at ten per cent. of the market value of that land on the date of the notification under sub- section (1) of section 3.

(5) The market value of the land on the said date shall be determined by the competent authority and if the value so determined by that authority is not acceptable to either of the

parties, it shall, on application by either of the parties to the District Judge referred to in sub- section (2), be determined by that District Judge.

(6) The decision of the District Judge under sub- section (2) or sub- section (5) shall be final.

A perusal of the sub-Section (2) & (5) reproduced above, would go on to show that on account of non-acceptance of amount of compensation determined by the Competent Authority under sub-Section (1) by either of the parties, an application can be filed before the District Judge and the same would then be determined by the District Judge. The jurisdiction as such of the District Judge was thus limited as per the Statute and the challenge by the landowners was only on account of the lesser amount of compensation having been awarded and by assessing the market value of the land @ Rs.25 lakhs in comparison to the claim of Rs.80 lakhs or on account of the fact that in the adjoining area, Rs.55 lakhs had been assessed and compensation @ 10% to Rs.5,05,000/- per acre had been paid as per Section 10(4) of the Act. The District Judge has thus wrongly digressed from the main issue and has set aside the appointment of respondent No.2 Arbitrator who had become *functus officio* after passing of the award dated 30.11.2011.

As noticed the issues in question before the Additional District Judge were only qua the quantum of compensation and the enhancement and not whether the appointment of the private respondent being the Arbitrator was right or wrong or was there any bias as such.

Resultantly, the judgment dated 03.07.2017 (Annexure P-1) whereby directions have been issued to appoint another unbiased person as a

Competent Authority is not sustainable in any manner.

Thus, the present writ petitions are allowed and the order dated 03.07.2017 (Annexure P-1) is quashed. It is directed that the matter shall be re-decided by the Court within the purview of dispute as per the statutory provision which has been raised since parties have already led evidence regarding their claim and objections on the quantum of compensation.

Ordered accordingly.

(G.S. SANDHAWALIA)
JUDGE

23.04.2019
pvd

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No