

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25374 of 2017
Date of Decision: 26.08.2019

Rupinder Singh & Ors. ... Petitioners

VS.

Union of India & Ors. ... Respondents

CWP No.11309 of 2018
Date of Decision: 26.08.2019

Prem Chand Gupta & Anr. ... Petitioners

VS.

Union of India & Ors. ... Respondents

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

Present: Mr. ML Saggar, Sr.Advocate with
Mr. Sunny Saggar, Advocate for the petitioners

Mr. Namit Kumar, Advocate for respondent No.1

Mr. DK Prajapati, Advocate for
Mr. RS Madan, Advocate for respondent No.2

Ms. Jasleen Kaur Sidhu, AAG Punjab

G.S. SANDHAWALIA, J. (Oral)

(1) This order shall dispose of the above-cited writ petitions involving common question of law. For brevity, the facts are being taken from CWP No.25374 of 2017. The award dated 27.06.2017 for the notification under Section 4 of the Land Acquisition Act, 1894 dated 18.09.2015 (P5) for the land falling in Muzara Khurd, Ludhiana has been challenged by way of the present writ petition filed under Articles 226/227 of the Constitution of India.

(2) The sole argument raised by the petitioners is that the award dated 27.06.2017 (P1) suffers from infirmity as Section 26 of the Right to

and Resettlement Act, 2013 was not kept into consideration while assessing the market value for the land which was acquired under Section 3G(1) of the National Highways Act, 1956.

(3) The amount of compensation has been calculated as per the Format-A the list of rates provided by Tehsildar, Ludhiana (West) (P1). Accordingly, counsel relied upon award (P4) dated 17.12.2010 pertaining to the notification dated 17.09.2009 and 23.02.2010 published on 22.12.2009 under sub-Section (1) of Section 3A of the 1956 Act wherein market value of the land of the same village had been fixed @ Rs.1.25 crores per acre.

(4) Respondent No.2 has taken a preliminary objection that there is an alternative and efficacious remedy under Section 3G(5) of the 1956 Act before the statutory Arbitrator. It is pointed out that some of the landowners have challenged the award dated 27.06.2017 by filing application and the matter is *sub judice*.

(5) Faced with this learned senior counsel for the appellants submits that once the award as such does not take into consideration the statutory criteria which is fixed the same is *non est* as such and should be set aside.

(6) This Court is not in a position to agree with the same as in similar circumstances while dealing with the issue of preliminary objection as such in **CWP No.2879 of 2018 Harwinder Singh & Ors. vs. Union of India & Ors.** decided on 24.07.2019, this Court held that the market value of the land in question has to be gone into. The statutory arbitrator would be best suited to go into this thicket of disputed question as it is settled law that the writ court would not tread where the facts are not clear and the compensation is to be based upon sale exemplars of the area. Reliance was

placed upon the judgment of the Apex Court in ***United Bank of India Vs. Satyawati Tondon and others, 2010 (8) SCC 110*** wherein the Apex Court has laid down principles of alternative remedy which are available.

(7) In the present case, as noticed the remedy is statutory in nature and therefore similarly situated landowners of the same village have approached the statutory arbitrator. It would not be appropriate for this Court to pass any order regarding the assessment of the market value of the land in question as it would lead to an anomalous situation as such as the market value of the land of the village is not a dispute as such *in personam* but it is *in rem*. The same market value as such is to be granted to the landowners of the same village if there land is similarly situated and has the same potential. It would thus be appropriate if the petitioners are relegated to the remedy of statutory arbitrator keeping in view the earlier stand of this Court taken in **Harwinder Singh's** case.

(8) The writ petitions are accordingly dismissed with liberty to the petitioners to approach the statutory Arbitrator.

26.08.2019

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(G.S. Sandhawalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No