

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

CWP-29143-2017 (O&M)
Date of decision: 13.02.2019

Satbir & othersPetitioners
Versus
Union of India & others ...Respondents

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

Present: Mr.Sandeep Kumar Yadav, Advocate
Mr.Tribhuvan Dahiya, Advocate
Mr.Manmohan Saroop, Advocate, for
Mr.Vishal Yadav, Advocate
for the petitioners.

Ms.Vibha Tewari, AAG, Haryana.

Mr.Chetan Mittal, Sr.Advocate
with Mr.Vivek Singla, Advocate
Mr.Udit Garg, Advocate,
Mr.Sunil Kumar Sharma, Advocate
Mr.Satish Singla, Advocate
Mr.Pawan Kumar Longia, Advocate for respondent-UIO.

G.S. SANDHAWALIA, J. (Oral)

Applications for placing on record replies, filed on behalf of respondent/
UIO

Applications for placing on record replies, filed on behalf of
respondent No.1, are allowed, in view of the averments made in the
applications, duly supported by affidavit. Same are taken on record,
subject to just exceptions. Office to tag the same at appropriate places.

CMs stand disposed of.

Main cases

Challenge in the present writ petitions, bearing CWP-29143-
2017, CWP-8642, 8646, 8873, 8686, 8411, 8419, 8454, 8476, 1000,
1004, 4448, 6455, 10531, 10570, 10729, 20489, 20496, 20517, 20519,

40302 & 36602-2018, has been raised to the award passed by the Arbitrator under the Railway (Amendment) Act, 2008, whereby the market value had been fixed for the land acquired for the Dedicated Freight Corridor Project. Facts have been taken from CWP-29143-2017 titled *Satbir & another Vs. Union of India & others*.

In essence, the Arbitrator has modified the initial award passed to enhance the compensation. The landowners have, thus, come directly to this Court, seeking further enhancement.

Objection taken by respondent No.1, as such, is that the arbitral award is to be challenged under Section 34 of the Arbitration & Conciliation Act, 1996, which is the statutory remedy available under the provisions of law.

On 18.01.2019, the following order was passed by this Court:

“Mr. Chetan Mittal, senior counsel has pointed out that the challenge in these writ petitions is primarily to the award whereby the Arbitrator has modified the amount as awarded by the Competent Authority. It is submitted that as per Section 20-F(7) of the Railways Act, 1989, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to every arbitration under the Act and therefore, the remedy would lie before the Civil Court of original jurisdiction. It is submitted that similar objections against the impugned award are already pending consideration before the concerned District Judges and therefore, it would lead to an ambiguous situation in as much as the said landowners would have a right as such to further approach this Court in First Appeal against the order which may be passed by the District Judge. Thus it could lead to contradictory findings for similarly-situated landowners.

Faced with this situation, counsel for the petitioners pray for time to address arguments.

Adjourned to 13.02.2019.

Photocopy of this order be placed on the record of other connected case(s).”

It could not be disputed by counsel for the landowners also that similarly situated landowners have already approached the District Judge, Rewari, as the land was situated in the said district. The only argument, as such, which can be raised by counsel for the landowners is that there is now considerable delay and there would be difficulty, as such, to file objections under Section 34 of the Arbitration Act, at this belated stage.

Keeping in view the fact that proceedings are arising out of acquisition of land and under the principle of Eminent Domain, the landowners have lost their land, this Court is of the opinion that the provisions of Section 14 of the Limitation Act would also come into play, since the petitioners have been before this Court since May, 2017.

The Apex Court in **Narinder Singh & others Vs. State of U.P. 2017 (9) SCC 426**, while examining the provisions of Section 28-A of the Land Acquisition Act, 1894, held that it is not an adversarial form of adjudication and fair compensation has to be determined for all landowners whose land has been taken away by the same notification as a principle of discrimination would also come into play. Therefore, the apprehension, as such, which has been raised by the counsel for the landowners is without any basis. It is expected that if the objections are filed by the landowners, before the District Judge, within a period of 4

weeks from the receipt of the certified copy of this order, the Union of India and the Railways shall not raise any objection qua the issue of limitation, especially keeping in view the fact that similar matters are stated to be pending, in view of the peculiar facts and circumstances.

Resultantly, the present writ petitions are dismissed as withdrawn, with the aforesaid liberty.

13.02.2019
Sailesh

(G.S. SANDHAWALIA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>