

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

CWP No. 7077 of 2017(O&M)

Date of decision: October 30, 2019

Ram Singh and another

...Petitioners

Versus

Union of India and another

..Respondents

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

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Present: - Mr. Ramesh Goyal, Advocate
for the petitioners.

Mr. O.P. Dabla, Advocate
for Union of India.

Ms. Jasleen Kaur Sidhu, AAG, Punjab

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G.S. SANDHAWALIA,J.

Petitioners challenge the award dated 09.12.2016 (Annexure P-12) and seeks enhanced compensation on commercial rates. The claim for the same is based on the earlier award dated 20.01.2014 (Annexure P-3) by which the land was acquired under the National Highways Act 1956. The case pleaded as such is that on an earlier occasion, the commercial rate was awarded over the land falling under khasra No.217//14 and, therefore, for the subsequent acquisition, the same valuation should be done and the land should not be treated as agricultural land differently.

Reply is that as such inadvertently commercial rate was given on the ground the land of the petitioners was situated within the municipal limits. However, on enquiry and as per reports of the field staff, the land was found to be agricultural and, therefore, the answering respondent reserves the right to recover the excess money paid to the petitioners.

Additional affidavit has also been filed wherein it is submitted that the action of the respondent authorities in treating the land of the petitioners and in changing its kind from commercial to agricultural is justified, reasonable and sustainable as per report received from the Naib Tehsildar, Barnala whereby the land was found to be agricultural. The land had been acquired from Khasra No. 217//14 and was situated away from the main road(map of the land is annexed as Annexure 1). The plea of alternative remedy before the Divisional Commissioner, who is Ex-officio Arbitrator and is competent to resolve all the matter was also set up.

The provisions of Section 3G(5) provides that if the amount determined by the competent authority under sub section (1) or sub Section(2) 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. The same reads as under:-

“If the amount determined by the competent authority under sub-section (1) or sub-Section (2) 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.”

From the perusal of the facts it would be clear that the issue whether the land is agricultural or commercial in nature is a disputed issue and in such circumstances an alternative remedy is available. In view of the settled principles of law that the writ jurisdiction is not to be exercised, as laid down by the Apex Court in **United Bank of India vs. Satyawati**

CWP No. 7077 of 2017(O&M)

-3-

Tondon and others 2010(8) SCC 110 Satyawati, this Court is of the opinion that it could not be appropriate to decide the disputed question. Resultantly, the writ petition is dismissed with liberty to the petitioners to adjudicate their grievance before the Arbitrator.

Accordingly, this writ petition is disposed of with the aforesaid liberty.

OCTOBER 30, 2019
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(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No