

CWP-30819-2019 (O&M)

176

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

**CWP-30819-2019 (O&M)
Date of decision : 24.10.2019**

Narinder Kaur

... Petitioner

Versus

Union of India and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Satbir Rathore, Advocate
for the petitioner.

Mr. R.S. Madan, Advocate
for respondent Nos.1 and 2/Union of India.

Mr. Vikas Mohan Gupta, Addl. A.G., Punjab,
for respondent No.3.

AMIT RAWAL, J. (ORAL)

The petitioner has approached this Court with the following
prayer:-

"Civil Writ Petition under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of mandamus directing the respondents to grant solatium and interest as per provisions of Sections 23 (1-A), 23(2), 28 and 34 of the Land Acquisition Act, 1894, for the land acquired under the National Highways Act, 1956, in view of Division Bench Judgment of this Hon'ble Court titled as "M/s Golden Iron and Steel Forgings V/s Union of India and others" 2011 (4) RCR (Civil) 375 and the judgment of Hon'ble Supreme Court passed in "Union of India & others V/s Tarsem Singh and others (Civil Appeal No.7064/19).

Further for the issuance of any other appropriate writ, order

CWP-30819-2019 (O&M)

or direction which this Hon'ble Court may deem fit and proper to the facts and circumstances of the case."

Initially, petitioner has been granted benefits under Sections 23(2) and 28 of the Land Acquisition Act, 1894 (hereafter called 'the 1894 Act'), for acquiring the land under National Highways Act 1956 (hereinafter called 'the 1956 Act'), in terms of judgment rendered by Division Bench of this Court in "*M/s Golden Iron and Steel Forgings V/s Union of India and others*" 2011 (4) RCR (Civil) 375. The aforesaid judgment has been upheld by Hon'ble the Supreme Court in **Union of India and another V/s Tarsem Singh and others** 2019 SCC Online SC 1230. Mr. Rathore submitted that order of competent authority merged in award of the Arbitrator or of any other Court. The petitioner did not file any claim regarding the aforesaid benefits, as decision of the Division Bench of this Court was pending consideration before the Hon'ble the Supreme Court. These are the statutory benefits, which have been given to all the landowners and petitioner has been deprived of the same. In this regard, had submitted legal notice dated 26.07.2019 (Annexure P-5), but there is no adherence thereto.

Notice of motion.

On asking of the Court, Mr. R.S. Madan, Advocate and Mr. V.M. Gupta, Addl. A.G., Punjab, accept notice on behalf of the respondent Nos.1 & 2/Union of India and respondent No.3/State, respectively.

The law with regard to grant of solatium under the specific provisions of the 1894 Act i.e. Sections 23 (1-A), 23(2), 28 and 34, is no longer res integra in view of the *ratio decidendi* culled out by Hon'ble the Supreme Court in **Union of India's case** (supra). The predicament of the

CWP-30819-2019 (O&M)

petitioner is writ large. Once the provisions of Section 3(J) of the 1956 Act, have been held to be *ultra vires* and the benefits had already been given to certain landowners, there cannot be classification of the landowners, whose land had been acquired under the 1956 Act.

The petitioner shall be at liberty to make an appropriate application before the Competent Authority or any other application, which he deems appropriate, for claiming the relief as sought in the present writ petition and in case, such application/representation is made, the Competent Authority shall decide the same as expeditiously as possible preferably within a period of three months from the date of receipt of certified copy of this order.

However, it is also made clear that in case, the petitioner is found to be entitled to the aforesaid benefits, the same shall be released within a period of two months thereafter.

With the aforesaid observations, the present writ petition is disposed of.

24.10.2019

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**