

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

CM-1048-1051-CII-2019 in/and
FAO-1844-2017 (O&M)
Date of Decision: February 04, 2019

Union of India and another

...Appellant

Versus

Varinder Kumar and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Raghujeet Singh Madan, Advocate
for the applicants-appellants.

Mr. Munish Puri, Advocate
for the respondents.

JAISHREE THAKUR, J. (Oral)

CM-148-CII-2019

1. This is an application for preponing the hearing of the main case (**FAO-1844-2019**), which is listed for 13.05.2019. For the reasons mentioned in the application, the same is allowed and the main case is taken up for hearing today.

FAO-1844-2019

2. This is an appeal filed by the Union of India and Project Director, National Highway Authority of India, seeking to challenge the order dated 12.08.2016 passed by the Additional District Judge, Jalandhar dismissing the objection petition filed under Section 34 of Arbitration and

Conciliation Act, 1996 to the award dated 20.06.2013 passed by the Arbitrator-cum-Commissioner, Jalandhar Division, Jalandhar has been passed.

3. In brief, the appellants herein sought to acquire land under Section 3 of the National Highway Act, 1956 for the purpose of widening the National Highway No.15. The competent authority came to assess the compensation @ ₹ 20 lacs per acre. Aggrieved against the said compensation, claimants approached the Arbitrator for enhancement where, they were directed to bring on record the evidence in support of their plea. Sale deeds were brought on the record, which are reflected at Serial Nos.4 to 9 of para 3 of the award. On appreciation of the evidence, the Arbitrator enhanced the compensation to ₹ 1,15,000/- per marla for agricultural land, awarded 10% ease money, solatium @ 30% along with rate of interest on the enhanced amount as per provisions of Section 34 of the Land Acquisition Act, apart from allowing severance charges @ 1/3rd of the price paid for land. The appellant-NHAI challenged the said award before the Additional District Judge, Jalandhar under Section 34 of Arbitration and Conciliation Act, however, the same came to be dismissed by order dated 20.06.2013, which order is under challenge before this court.

4. Mr. Raghujeet Singh Madan, learned counsel appearing on behalf of the appellant-NHAI seeks dismissal of the impugned order dated 20.06.2013 passed by the Additional District Judge, Jalandhar *inter alia* on the ground that the sale deeds, which have been reflected at Serial Nos.4 to 6 and 8, 9 are post notification and could not have been considered. In support of this argument, he places reliance upon judgment rendered in

Bhupal Singh and others vs. State of Haryana, 2015(2) RCR (Civil) 634.

Sale deed reflected at Sr. No.7 (para 3 of the award) is dated 18.08.2003, has been challenged primarily on the ground that there is no evidence available on the record as to the proximity of the village where land was acquired in village Jaswal Lahri and between the sale deed of village Fangarian relied upon . It is also argued that severance could not have been allowed on the ground that there is no evidence available on the record, apart from challenging 10% ease money that has been allowed and the rate of interest as payable under Section 34 of the Land Acquisition Act. It is also contended that without giving due consideration to the law as settled, the Additional District Judge, Jalandhar has erred in dismissing the objections raised to the award passed.

5. However, learned counsel for the appellant herein in all fairness to the court has brought on record the judgment, which has been rendered by the Coordinate Bench in **Union of India and another vs. Surjit Kumar and others (FAO-880-215)** and **Union of India and another vs. Asha Rani and others (FAO-1677-2015)** decided on 30.03.2016 in which, the order passed under Section 34 of the Arbitration and Conciliation Act 1996 has been modified. By the said modification, the appeal was partly allowed, upholding the amount of compensation @ ₹ 1,15,000/- per marla for agricultural land and further holding that the claimants would be entitled to statutory benefits as held in ***M/s Golden Iron and Steel Forging vs. Union of India and others, 2011(4) RCR (Civil) 375.***

6. Mr. Munish Puri, learned counsel appearing on behalf of the respondents-claimants herein submits that the question whether the

enhancement as awarded by the Arbitrator is arbitrary and against settled law or the question whether Additional District Judge has erred in dismissing objection can no longer be gone into in these First Appeals, considering the fact that similarly situated persons, whose land has been acquired under the same notification, have already been granted benefits, as would be evident from judgments rendered in **Union of India and another vs. Surjit Kumar and others (FAO-880-215)** and **Union of India and another vs. Asha Rani and others (FAO-1677-2015)**. It is argued that the respondents-claimants herein, who are similarly situated and have been deprived of their land, have to be treated on the same footing.

7. I have heard learned counsel for the parties.

8. While taking note of the fact that the Arbitrator had erred in looking at the sale deeds for assessment, which are post notification and against the settled principle in the judgment rendered in ***Bhupal Singh and others vs. State of Haryana (supra)***; and also taking note of the fact that there is no evidence on the record regarding severance, this court is of the opinion that since similarly situated persons have already been allowed compensation as assessed by the Coordinate Bench of this court, it would be in the fitness of the things if the similar relief is allowed to the respondents-claimants herein. It is also brought to the notice of this court that as on date the said judgment in **Union of India and another vs. Surjit Kumar and others (FAO-880-215)** and **Union of India and another vs. Asha Rani and others (FAO-1677-2015)** has not been challenged so far. Accordingly, the enhancement of compensation by the Arbitrator @ ₹ 1,15,000/- per marla for agricultural land is upheld. Land owners, in view of the judgment

rendered by the Division Bench of this court in **M/s Golden Iron and Steel Forging's case (supra)** shall be entitled to statutory benefits as per provisions of Section 23(2) and 28 of the Land Acquisition (Amendment) Act, 1984.

8. With the aforesaid modification, the appeal is partly allowed and award is modified accordingly.

February 04, 2019
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No