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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C) 7981/2019**

SUBHASH CHAND KATHURIA

..... Petitioner

Through: Mr Rajesh Yadav with Ms Ruchika,
Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Yashish Chandra and
Ms. Yashaswi S.K. Chocksey,
Advocates for R-1/UOI
Ms Padma Priya and Mr Dhruv
Nayar, Advocates for NHAI.
Mr Yeeshu Jain, Standing Counsel for
LAC/L&B/R-3 with Ms Jyoti Tyagi,
Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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24.07.2019

CM APP 33165/2019 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 7981/2019 & CM APPL. 33164/2019 (Stay)

2. Notice. Notice is accepted by learned counsel for the Respondents.

3. The short question involved in this petition is whether the Competent Authority, Land Acquisition ('CALA') was justified in passing the impugned order dated 12th June, 2019, rejecting the objections of the Petitioner under Section 3-C of the National Highways Act, 1956 ('NH

Act') and merely following what had already been held in a previous Award dated 2nd April, 2018 determining compensation payable under Section 3 G of the NH Act in respect of similar land, treating such land as 'government land' instead of 'private land'. The second objection to the earlier Award was that it had treated the land as 'agriculture land', whereas the Petitioners therein were contending that it was actually 'urbanized land'.

4. The said Award dated 2nd April, 2018 was subject matter of challenge before this Court in W.P.(C) Nos. 5822/2018 and 5831/2018 (by the same Petitioner herein) and W.P.(C) No.5846/2018 (***Subhash Chand Kathuria v. Union of India***). The three writ petitions were disposed of by this Court by a common judgment dated 19th February, 2019. After noticing that a declaration under Section 3 D of the NH Act had been passed as had an Award under Section 3 G (1) thereof, and further since an Arbitrator had already been appointed under Section 3-G (5) of the NH Act, this Court had permitted the Petitioners in those cases to raise the submissions regarding the erroneous classification of their lands, and consequent erroneous determination of compensation, before the learned Arbitrator in accordance with law.

5. The distinction as far as the present petition is concerned is that it has been filed at the stage where the objections of the Petitioner under Section 3 C (1) of the NH Act have been rejected by the CALA by the impugned order dated 12th June, 2019 passed under Section 3-C of the Act thereof.

6. A serious objection has been raised on behalf of the NHAI by Ms. Padma Priya, learned counsel appearing on its behalf that in the present case as well the matter should be allowed to proceed to the next stage of a declaration under Section 3-D of the NH Act, followed by determination of compensation in terms of Section 3-G of the NH Act. If the Petitioner was still aggrieved he could seek arbitration under Section 3-G (5) read with Section 3-G (7) of the NH Act.

7. The Court finds that in the impugned order dated 12th June, 2019, the CALA fails to note that the previous Award was the subject matter of challenge before this Court. Learned counsel for the Petitioner informs the Court that apart from placing documents in support of his contentions, this Court's aforementioned decision dated 19th February, 2019 was in fact placed before the CALA. However, the impugned order makes no mention of either the documents or the order of this Court. It merely follows the earlier Award dated 2nd April, 2018 treating the lands in question as 'government land' and in a 'rural' area without actually addressing the objections of the Petitioner thereto.

8. Merely following the earlier Award, which itself is now the subject matter of arbitral proceedings, and without dealing with the objections on merits, would only multiply litigation whereas the object under Section 3-C of the NH Act is to minimize litigation. The exercise to be performed under Section 3-C of the NH Act is not a mechanical one, but a *quasi judicial* one where the objections raised have to be considered on merits and a reasoned order is to be passed thereon, either allowing or disallowing them, wholly or partly.

9. For all of the aforementioned reasons, the impugned order dated 12th June, 2019 is hereby set aside. The objections of the Petitioner under Section 3-C (1) of the NH Act will now once again be placed before the CALA for a fresh consideration on merits in accordance with law.

10. The matter be listed before the CALA on 29th July, 2019 for the aforesaid purpose.

11. The writ petition and pending application are disposed of in above terms. No costs.

12. *Dasti* under the signatures of the Court Master.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 24, 2019

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