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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 20.01.2020

1. CWP-27107-2018

MANOJ KUMAR AND ORS

....PETITIONERS

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

2. CWP-29934-2018

BISHAN SINGH AND ORS

....PETITIONERS

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

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

Present: Mr.Ramesh Hooda, Advocate,
for the petitioners.

Mr. Rishi Kaushal, Advocate
for respondent No. 1.

Ms. Vibha Tewari, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

1. The challenge in the writ petition filed under Sections 226/227 of the Constitution of India is to order dated 16.08.2017 (Annexure P-6) whereby the statutory Arbitrator under the provisions of National Highways Act, 1956 (for short '1956 Act') rejected the claim of the petitioners on the

ground of limitation by holding that three years' period is prescribed in the arbitration cases.

2. The facts would go to show that Award dated 26.02.2008 (Annexure P-1) was passed for the land acquired under the provisions of National Highways Act, 1956 on the stretch of land from KM 30.00 to KM 86.00 (Bahadurgarh-Rohtak Section) in District Rohtak in the State of Haryana and Rs. 23.00 Lakhs was awarded as market value. The petitioners being aggrieved against the said acquisition filed applications before the District Revenue Officer on 7/11.04.2008 for enhancement of the amount wrongly under Section 18 of the Land Acquisition Act, 1894. The reminder was such as sent on 21.04.2017 (Annexure P-4) for referring the matter to the Civil Court. The perusal of the communication dated 29.05.2017 (Annexure P-5) would show that the said request had been registered at Sr. Nos. 1 and 2 with the Land Acquisition Collector, Rohtak but the same had not been forwarded to the Arbitrator/Additional Commissioner, Rohtak being buried in the record and being traced once the office had shifted. Eventually, the impugned order was passed on the ground that there was a delay by the statutory Arbitrator.

Learned counsel for the respondents submits that the application should have been prepared before the Arbitrator and therefore, the fault lies on the part of the petitioner.

On the other hand, learned counsel for the petitioners has referred to the judgment of the Division Bench (Annexure P-7) dated 27.07.2016 to show that Arbitrators in the State of Haryana under the 1956 Act were appointed on 29.09.2011 under Section 3G (5) of the Act. It is,

thus, submitted that the applications were rightly filed though wrongly under the Section 18 of the Land Acquisition Act before respondent No. 3.

Reliance placed by the respondents upon the Division Bench judgment of the Kerala High Court in ***K.Leela Versus The District Collector and another; 2016 (5) RCR (Civil) 622***, thus in such circumstances, is not justified. In the said judgment, the issue was that the claim of the landowners for referring the matter had been filed on 10.05.2013 whereas notification of 3D of the Act was issued on 21.10.2005 and the declaration had been published on 20.10.2006. The amount of award had been paid on 16.04.2010. It was in such circumstances, the claim was held to be barred by limitation being beyond three years from the date of payment. In the present case as noticed that the application was filed immediately before the Land Acquisition Collector in the absence of any arbitrator having been appointed. Therefore, it cannot be said that there is any delay on the part of the landowners and that the said judgment is not applicable.

The landowners had obviously taken recourse to their legal remedies though the nomenclature of the application might not be correct. It was the duty of the respondent as such also to forward the application to the correct office in such circumstances, specially once the principle of *eminent domain* is being invoked to acquire the land and the landowners are entitled for the rightful compensation. To deny the enhanced compensation on the basis of the limitation, in such circumstances, is not justified. Sufficient cause as such has been made out, as the notification also for appointment of Arbitrators was made apparently three years post the award passed, and

after the filing of the application. In such circumstances, the impugned order is not justifiable and same is quashed. Accordingly, the Arbitrator is directed to decide the issue on merits regarding the issue of enhanced compensation, in accordance with law.

The writ petitions stand allowed.

20th January, 2020

shabha

(G.S. SANDHAWALIA)
JUDGE

<i>Whether speaking/reasoned</i>	-	<i>Yes/No</i>
<i>Whether reportable</i>	-	<i>Yes/No</i>