

227 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

FAO No.6234 of 2017

Date of Decision:12.03.2020

UNION OF INDIA AND ANOTHER

...Appellants

Versus

HARMEET KAUR AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. R.S. Madan, Advocate for the appellants.

 Mr. Navjot Singh, Advocate for the respondents.

DEEPAK SIBAL, J. (ORAL)

The respondents' land situated in village Khudda, District Hoshiarpur was acquired by the appellant for widening of Jalandhar-Pathankot section of National Highway No.1/A. The Competent Authority-cum-Land Acquisition Collector-cum-Sub Divisional Magistrate, Dasuya assessed the compensation payable to the respondents but since the same was not acceptable to the respondents they filed an application under Section 3 (G) of the National Highways Act, 1956 seeking enhancement therein. Such application was referred to an Arbitrator who through his award dated 18.01.2010 enhanced the awarded compensation. The appellants filed an application under Section 34 of the Arbitration and Conciliation Act, 1996 (for short-the Act) before the Additional District Judge, Jalandhar for setting aside the aforesaid award. Through order dated 05.04.2012 the Additional District Judge, Jalandhar set aside the award and remitted the matter back to the Arbitrator for deciding afresh.

Before the Arbitrator could give a fresh decision, the appellants filed another application under Section 34 of the Act against the aforesaid award of the Arbitrator dated 18.01.2010. Such application has been dismissed by the Additional District Judge, Jalandhar through order dated 02.12.2016 occasioning the filing of the present appeal.

The above undisputed facts reveal that in proceedings filed against the Arbitrator's award dated 18.01.2010 two contrary orders have been passed creating an anomalous situation. The impugned order of the Additional District Judge dated 02.12.2016 is on the same issue which already stood decided and finally settled between the parties through an earlier order dated 05.04.2012 passed by the Additional District Judge, Jalandhar. Therefore, the impugned order has to give way to the earlier order by the coordinate authority especially when it is the admitted position that the factum with regard to passing of the earlier order dated 05.04.2012 was specifically brought to the notice of the Additional District Judge, Jalandhar before he passed the impugned order dated 02.12.2016.

In view of the above, the impugned order dated 02.12.2016 is set aside leaving it open to the parties to raise all possible pleas that they may have in accordance with law before the Arbitrator.

The parties are directed to appear before the Arbitrator on 30.05.2020.

The appeal is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

March 12, 2020

Jyoti Whether speaking/reasoned Yes/No Whether Reportable Yes/No