

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

Sr. No.211-3

FAO-570 of 2018

Date of decision: 04.03.2020

Union of India and another

....Appellants

versus

Darshan Singh (since deceased) through his LRs and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

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

Mr. Nimanyu Gautam, Advocate
for respondent Nos.1(a) to 1(e).

* * *

DEEPAK SIBAL, J. (Oral)

The present appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short – the Act) is directed against the order dated 06.07.2017 passed by the Additional District Judge, Jalandhar through which an application filed by the appellants under Section 34 of the Act was dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that 9 marlas of land out of total land measuring 1 kanal 6 marlas comprised in Khasra No.7963/6958 which was owned and possessed by respondents No.1(a) to 1(e) (for short – the land owners) was acquired for a public purpose namely widening and four laning of Jalandhar-Pathankot Section of National Highway No.1/A. Under

Section 3G(1) of the National Highways Act, 1956 (for short – the 1956

Act), the Competent Authority determined the compensation payable to the land owners @ ₹ 33,400/- per marla. The land owners were dissatisfied with the awarded compensation whereas according to the appellant-NHAI just and fair compensation had been awarded by the Competent Authority. Accordingly, a dispute came into existence and the same, under Section 3G (5) of the 1956 Act, was referred to be determined by an Arbitrator to be appointed by the Central Government. Through Award dated 13.08.2010, the appointed Arbitrator determined the market value of land @ ₹ 80,000/- per marla. Against the said Award, the appellant filed objections under Section 34 of the Act which on 18.08.2011 were accepted by the Additional District Judge, Jalandhar, who remanded the matter to the Arbitrator to pass a fresh Award. On remand, the land owners presented evidence before the Arbitrator to claim enhancement in the compensation awarded to them by the Competent Authority. They also claimed compensation towards severance of their land. Statutory benefits including solatium and interest were also sought. On the other hand, the appellant-NHAI sought to justify the compensation so awarded by the Competent Authority. Through Award dated 16.05.2013, the Arbitrator, after considering the compensation assessed and paid by the appellant-NHAI qua land in rural areas on the same highway which was situated less than five kilometers away from the acquired land assessed the compensation for the vacant plots @ ₹ 1,00,000/- per marla. Since after acquisition only a part of the land of the land owners remained with them they were also granted compensation towards severance of their land @ ₹ 33,333/- per marla. In addition solatium and interest as per the applicable provisions of the Land Acquisition Act 1894 were also granted.

The appellant filed an application under Section 34 of the Act seeking setting aside of the afore-referred Award. It was submitted that compensation had been assessed by the Arbitrator without there being any material or evidence before him in that regard. The Award was challenged on the ground that the same was against public policy and that the same was vague and non-speaking. Per contra, the land owners justified the Award.

The Additional District Judge, Jalandhar, after considering the law laid down by the Supreme Court with regard to the power of the Courts under Section 34 of the Act, found the Award to be reasonable; within the four corners of the statutory provisions and not perverse. Resultantly, the appellants' application was dismissed through the order under challenge in the present appeal.

Mr. R.S. Madan, learned counsel appearing for the appellants submitted that the Arbitrator's Award dated 16.05.2013 as also the impugned order passed by the Additional District Judge, Jalandhar are liable to be set aside as through them the land owners have been granted enhanced compensation without there being any evidence on the record to justify the same. Grant of compensation towards severance of land was also challenged on the ground that there was no evidence on the record to show that acquisition of the land owners' land had resulted in severance of their land holdings.

On a query posed by the Court, Mr. Madan does not dispute that for vacant land in rural areas in and around the town of Dasuya the appellant-NHAI has accepted and paid compensation @ ₹ 1.00 lakh per marla. It is further not disputed that the land in question which falls on the same National Highway is less than five kilometers away from the afore-

referred land. That being so, grant of compensation at the same rate is found to be reasonable.

Compensation towards severance of land has been awarded to the land owners as 9 marlas out of their total holding of 1 kanal 6 marlas has been acquired. It has specifically been held by the Arbitrator that under the instructions issued by the Government the land remaining with the land owners can hardly be put to any use by them and that a flyover has come up in front of the acquired land decreasing the commercial potentiality of the same. No evidence to the contrary is found to have been produced by the appellants in this regard.

In the light of the above, this Court finds the impugned award to be reasonable; it does not contravene any substantive provision of law and that it does not shock the conscious of the Court. Resultantly, the impugned award and the order under challenge warrant no interference.

Dismissed.

March 04, 2020
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No