

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

CWP-1700-2021(O&M)

Date of decision: 20.07.2021

Rehmat and others

.....Petitioners

Versus

National Highway Authority of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Vinay Kumar Pandey, Advocate, for the petitioners
 Mr. Raghujeet Madan, Advocate for NHAI
 Mr. Chanderhas Yadav, Advocate for respondent no.4

ANIL KSHETARPAL, J. (ORAL)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Through this writ petition the petitioners claim to be interested persons in a piece of land, which is the subject matter of acquisition by the Central Government in exercise of powers under the National Highways Act, 1956. The petitioners claim to have become owners in view of Section 5 and 8 of the Punjab Tenancy Act, 1887 and Section 3 of the Punjab Occupancy Tenancy (Vesting of Proprietary Right) Act, 1953. The petitioners are alleged to have filed an application for referring the dispute regarding entitlement of the amount to the Principal Civil Court of Original Jurisdiction of the District.

It is not in dispute that the competent authority has failed to take any action on the aforesaid application.

Section 3H of the National Highways Act, 1956, is

extracted as under:-

“Section 3H Deposit and payment of amount.—

(1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 3G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 3D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by

the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.]”

It is apparent from the reading of the above-mentioned provision that if any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom some or any part thereof is payable, the competent authority is required to refer the dispute to the jurisdiction of the Principal Civil Court of the original jurisdiction of the District.

The learned counsel representing the respondent contends that in various litigations involving the concerned parties, the competent courts have already adjudicated the dispute with regard to title of the property and hence, declared that respondent no.4 is the owner of the property.

Be that as it may. Let the competent authority-cum-District Revenue Officer take a decision on the application submitted by the petitioners within three weeks. The parties through their counsel are directed to appear before the competent authority on 02.08.2021.

Disposed of.

All the pending miscellaneous applications, if any, also stand disposed of.

20.07.2021

rekha

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No

(ANIL KSHETARPAL)

JUDGE