

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

101+102+203+212+213+214+215

MADANJIT KAUR

TA-191-2021 (O&M)
Date of decision: 14.10.2021
..Petitioner

Versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA AND ORS

..Respondents

GURJEET SINGH

TA-863-2021 (O&M)
..Petitioner

Versus

UNION OF INDIA AND ORS

..Respondents

DR. RAVINDER SOOD

TA-197-2021 (O&M)
..Petitioner

Versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA AND ORS

..Respondents

ANIL GHAI

TA-223-2021 (O&M)
..Petitioner

Versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA AND ORS

..Respondents

SARWAN SINGH

TA-856-2021 (O&M)
..Petitioner

Versus

UNION OF INDIA AND ORS

..Respondents

TA-866-2021 (O&M)

WADHWA RAM

..Petitioner

Versus

UNION OF INDIA AND ORS

..Respondents

TA-869-2021 (O&M)

MULAKH RAJ

..Petitioner

Versus

UNION OF INDIA AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner. (TA-191, 197, 223 of 2021)

Mr. Vishal Aggarwal, Advocate
for the petitioner (TA-863, 856, 866 & 869 of 2021)

Mr. DK Singal, Advocate for NHAI.

ANIL KSHETARPAL, J (Oral)

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

CM No.10859-CII of 2021 in TA No.191 of 2021

CM No.10858-CII of 2021 in TA No.197 of 2021

CM No.10857-CII of 2021 in TA No.223 of 2021

Allowed as prayed for. Annexure R-1/3 is taken on record.

CM No.10780-CII of 2021 in TA No.863 of 2021

Allowed as prayed for, subject to all just exceptions.

Amended memo of the parties is taken on record.

Main Cases

This order shall dispose of TA No.191, 197, 223, 856, 863, 866 & 869 of 2021.

Written statements filed on behalf of the NHAI are taken on record.

The petitioners, in various transfer applications, are the landowners who stand deprived of their respective pieces of land pursuant to the compulsory acquisition by the Union of India under the National Highways Act, 1956 (in short 'the Act'). As per the Section 3G (5) of the Act, if the amount determined by the competent authority for acquisition of the land under the Act is not acceptable to either of the parties, in that case on an application, the Central Government is required to appoint an Arbitrator for determination of the compensation. In all these cases, the Arbitrator was appointed and he has adjudicated the matter. The respective parties have filed objections under Section 34 of the Arbitration and Conciliation Act, 1996. In all these cases, the objection petitions of the landowners have been filed before the Principal Civil Court of the District where the acquired land is

situated or at the place where the Arbitrator conducted the arbitration proceedings.

In all these cases, the Union of India has also filed the objections against the same award which are pending before the Court in the different districts. Thus, the objection petitions filed by the respective parties against a common award of the Arbitrator are pending in the different Courts at different places/cities.

Keeping in view the aforesaid facts, the National Highway Authority of India was requested to take a policy decision with respect to the matter. Pursuant thereto, the National Highway Authority of India has issued an office order dated 11.10.2021 which reads as under:-

Sub: Transfer applications pending in the Hon'ble Punjab and Haryana High Court, Chandigarh, regarding adjudication of Land Acquisition disputes in Civil Courts.

1. It has come to the notice of this office through representation received from Sh. DK Singal, Advocate, that in some court cases regarding land acquisition, land owners have filed the petitions before Hon'ble Punjab and Haryana High Court, Chandigarh seeking transfer of the petitions filed by NHAI.
2. Keeping in view the filing and pendency of the number of transfer applications arising out of the acquisition under National Highways Act, Hon'ble Punjab and Haryana High Court, Chandigarh has observed that in case some policy is framed at the end of NHAI, the filing of transfer applications in the High Court would be avoided.
3. In this regard, it has been decided that NHAI would file objections petition under Section 34 of the Arbitration and Conciliation Act in Civil Courts, where the land has been acquired and not at the location of Arbitration proceedings to facilitate/convenience of the land owners/NHAI and avoid multiplicity of proceedings. However, the said directive is

subject to compliance of mandate of Section 42 of the Arbitration and Conciliation Act, 1996.

4. This issue with the approval of RO Chandigarh in supersession of earlier office order No.NHAI/RO/CHD/11018/2633-3722 dated 30.09.2021.

Yours faithfully,

sd/-

11.10.2021

(Gautam Vishal)

General Manager (Tech)

The aforesaid policy is prospective in nature and takes care of the objections which are filed subsequent to the policy decision. However, some effective order is required to be passed with regard to the objections in the matters which are already pending on date of implementation of policy decisions.

Keeping in view the aforesaid facts, it is considered appropriate to transfer the objections to the Court of competent jurisdiction in the district in which the acquired land is located. This order has been passed keeping in view the fact that the owners who stand deprived of their land will get a sufficient opportunity for proper adjudication of their claims with regard to appropriate compensation.

While passing this order, this Court has not adjudicated upon the territorial jurisdiction of any particular Court to entertain the objection petition. It is expected that the transferee Court shall take a holistic view of the matter keeping in view the controversy involved. These proceedings are being transferred in order to enable the Court to do substantive justice.

Hence, the proceedings of the following cases are ordered to be transferred:-

1. Objection petition under Section 34 (National Highways Authority of India and anr. vs. Madanjit Kaur and anr.) in ARB No.252/2020 from the Court of the Addl. District and Sessions Judge-4, Patiala, to the Court of competent jurisdiction at Ludhiana.
2. Petition/objections i.e. ARB No.8/2020 (Union of India and anr. vs. Gurjeet Singh and anr.) from the Court of the Addl. District and Sessions Judge, Barnala, to the Court of competent jurisdiction at Patiala.
3. Objection petition under Section 34 (National Highway Authority of India and anr. vs. Ravinder Sood and anr.) in ARB No.250/2020 from the Court of the Addl. District and Sessions Judge-4, Patiala, to the Court of competent jurisdiction at Ludhiana.
4. Objection petition under Section 34 (National Highway Authority of India and anr. vs. Anil Ghai and anr.) in ARB No.251/2020 from the Court of the Addl. District and Sessions Judge-4, Patiala, to the Court of competent jurisdiction at Ludhiana.
5. Petition/objections i.e. ARB No.06/2020 (Union of

India vs. Sarwan Singh and ors.) from the Court of the Addl. District and Sessions Judge, Barnala, to the Court of competent jurisdiction at Patiala.

6. Petition/objections i.e. ARB No.7/2020 (Union of India vs. Wadhwa Ram) from the Court of the Addl. District and Sessions Judge, Barnala, to the Court of competent jurisdiction at Patiala.

7. Petition/objections i.e. ARB No.3/2020 (Union of India vs. Mulakh Raj and ors) from the Court of the Addl. District and Sessions Judge, Barnala, to the Court of competent jurisdiction at Patiala.

The transferor Court is requested to remit the files of the above-noted cases to the transferee Court forthwith.

The parties through their counsel are directed to appear before the Court of District and Sessions Judge, concerned, on 10.11.2021 who shall either decide the matter himself or assign it to the Court of competent jurisdiction.

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

14.10.2021

ashok

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE