

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

CWP-11426-2021(O&M)

Date of decision: 01.07.2021

Kesari Nand

.....Petitioner

Versus

Union of India and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Neeraj Gupta, Advocate, for the petitioner

ANIL KSHETARPAL, J. (ORAL)

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

The petitioner claims to be co-owner in a joint land which has been acquired under the National Highway Act, 1956. Two separate awards were passed by the competent authority. On 30.06.2020 the award with respect to the land was passed whereas on 11.12.2020 the award with respect to the structure was passed.

It appears that the petitioner filed an application on 22.12.2020 before the competent authority for apportionment of the amount with respect to construction. The competent authority on inquiry found that the construction belongs to Smt. Krishna Devi, another co-sharer.

Through this petition, the petitioner assails the correctness of the order dated 17.06.2021 passed by the competent authority directing the payment of compensation with regard to the structure to Krishna Devi. Learned counsel representing the petitioner contends that

the competent authority has no jurisdiction to order apportionment of the compensation to a particular co-owner as the same lies within the domain of a competent civil court. In order to appreciate the argument, it is important to examine the statutory provision. Section 3H(4) of the National Highway Act, 1956, is extracted as under:-

“Section 3H(4) in The National Highways Act, 1956

(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.”

It is not in dispute that the petitioner never requested the competent authority to refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. There is no bar for the petitioner to apply for now referring the dispute of apportionment to the civil court even. The amount payable as per the award is stated to be more than Rs.42,00,000/.

Keeping in view the aforesaid facts, the writ petition is disposed of with liberty to the petitioner to make an application before the competent authority, within one week from today, for referring the dispute to the Principal Civil Court of original jurisdiction, in accordance with sub section 4 of Section 3-H. If such an application is filed, the competent authority shall refer the dispute to the Principal Civil Court of original jurisdiction within one month thereafter. Till then, the competent authority shall not disburse the amount. Once the matter, as

noticed above, is required to be referred to the court, the petitioner shall be at liberty to file an application for interim direction before the Civil Court.

Since the present order has been passed without issuing notice to Smt. Krishna Devi, who has not been impleaded as a party respondent in the writ petition, she will be at liberty to file an application for modification.

Disposed of.

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

01.07.2021

rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No