

**CWP-12495-2021(O&M)
and connected cases**

1

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

1.CWP-12495-2021(O&M)

Kuldeep Singh

.....Petitioner

Versus

Union of India and others

.....Respondents

2.CWP-12512-2021(O&M)

Kuldeep Singh and others

.....Petitioners

Versus

Union of India and others

.....Respondents

3.CWP-12555-2021(O&M)

Nikesh Jain

.....Petitioner

Versus

Union of India and others

.....Respondents

Date of decision: 14.07.2021

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr.Tejwinder Singh Hundal, Advocate, for the petitioners
in all the three writ petitions**

Ms. Sunint Kaur, AAG, Punjab

Mr. Raghujeet Madan, Advocate for NHAI

ANIL KSHETARPAL, J.

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

1. By this order, three civil writ petitions i.e CWP-12495-2021, 12512-2021 and 12555-2021 shall stand disposed of.

2. The relief sought in these three writ petitions is identical. The learned counsel representing the petitioner in all the three writ petitions is same and states that these writ petitions can be conveniently disposed of by a common order.

3. In these writ petitions, the petitioners who were owners of the land which was the subject matter of compulsory acquisition under the National Highways Act, 1956, pray for enforcement of the award passed by the Arbitrator while enhancing the amount of compensation in excess of what was awarded by the competent authority. This Court in CWP-10182-2021 titled as '**Anu Garg @ Anu Jain vs. Union of India and others**' decided on 14.07.2021, after examining the provisions of Section 3G(6) of the National Highways Act, 1956 and Section 36 of the Arbitration and Conciliation Act, 1996 has held as under:-

“9. By virtue of sub-section 6 of Section 3G of the Act of 1956 read with Section 36 of the Act of 1996, the award passed by the Arbitrator can be enforced or got implemented as if it is a decree of the court in accordance with the Code of Civil Procedure, 1908. Normally, whenever the amount is payable for compulsory acquisition of the land, the same is

required to be paid with solatium and interest. As per the recent judgment passed by the Hon'ble Supreme Court in '**Union of India vs. Tarsem Singh and others**' (2019) 9 SCC 304 Section 3J of the Act of 1956 has been struck down. It has been held that in case of acquisition under the 1956 Act, the owners shall be entitled to solatium and interest. Hence, the amount payable under the award of the Arbitrator is required to be calculated. The question is whether the High Court in exercise of its writ jurisdiction should entertain the writ petitions, even if the land owners have equally efficacious remedy of an execution petition, before the court of law.

10.The judgment in Sayedabad Tea Company Ltd (supra) has no application in the facts of the present case. In that case, the question which arose for determination was whether the application under Section 11 of the Act of 1996 is maintainable in view of Section 3G(5) of the Act of 1956. The Hon'ble Supreme Court in that context held that application under Section 11 of the Act of 1996 is not applicable. The Hon'ble Supreme Court was not dealing with a situation where the land owners were seeking enforcement of the award passed by the Arbitrator. Hence, the aforesaid judgment does not help the

petitioners.

11. Once the petitioners have an equally efficacious alternative remedy before the District Court, it would not be appropriate to enforce the award of the Arbitrator by filing a writ petition under Article 226 of the Constitution of India. The writ jurisdiction of the High Court is a discretionary jurisdiction. It is well settled that the writ Court ordinarily should not exercise its writ jurisdiction in case effective alternative remedy is available. Still further, the dispute with regard to the calculation of the appropriate amount of compensation which now includes solatium and interest shall be required to be calculated and determined. Hence, the District Court shall be the appropriate court.”

4. In view of the aforesaid discussion, the petitioners are relegated to the remedy of filing an execution petition before the District Court.

5. Disposed of.

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

14.07.2021
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No