

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

**CWP-12357-2021(O&M)
Date of decision: 12.07.2021**

Amar Nath and another

.....Petitioners

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Naresh Kumar Chhokar, Advocate, for the petitioners
Mr. Abhilaksh Gaind, 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.

The petitioners were owners of a piece of land, which was acquired by the Union of India, in accordance with the provisions of the National Highways Act, 1956. The competent authority assessed the amount payable at the rate of Rs.30,00,000/- per acre vide an award dated 28.12.2015. In accordance with Section 3G(5) of the National Highways Act, 1956, on the application of the petitioners, the matter was referred to the Arbitrator for re-determination of the compensation payable for the land acquired. The same has been decided on 20.02.2019. The petitioners assail the correctness of the aforesaid award passed by the Arbitrator.

As per sub-section 6 of Section 3G the provisions of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the 1996 Act'), shall apply to every arbitration under this Act. Section 3G of the National Highways Act, 1956, is

extracted as under:-

3G. Determination of amount payable as compensation.(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent. of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

(a) the market value of the land on the date of publication of the notification under section 3A;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.]

As per Section 34 of the 1996 Act, the objections to the award of the Arbitrator are maintainable before the District Court within a period specified under the 1996 Act.

Since the petitioners have an alternative remedy before the District Court, therefore, this Bench does not find it appropriate to exercise its writ jurisdiction.

Disposed of.

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

12.07.2021
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No