

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

CWP-15465-2020(O&M)

Date of decision:09.02.2021

Rajesh Kumar and others

.....Petitioners

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Sachin Mittal, Advocate for the petitioners

Mr. Aerika Singh, Advocate for
Mr. R.S.Madan, Advocate for NHAI

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ANIL KSHETARPAL, J.

CM-1339-CWP-2021

Allowed as prayed for.

Main case

The petitioners' land was acquired under the National Highways Act, 1956, by the Central Government for constructing National Highway. The competent authority, while announcing the award on 18.12.2018 assessed the amount of compensation by adopting belt system. The strip of land having width upto 3 acres alongwith the road was treated as prime land whereas the remaining land was treated as non-prime land. Obviously, the compensation payable for the prime land was assessed higher than the non-prime land. It is claimed by the National Highway Authority of India that inadvertently the petitioners have been paid compensation at the rate assessed for the prime land, although, their land does not fall within the aforesaid belt. Now, the National Highway Authority wants to recover the amount.

It is not in dispute that any of the parties can apply for assessment of compensation by the Arbitrator to be appointed by the Central Government under sub-section 5 of Section 3 (G) of the National Highway Act, 1956, if the amount so assessed by the competent authority in the award is not acceptable. Admittedly, at the behest of the writ petitioners, the matter is pending before the Arbitrator. The Arbitrator is required to decide as to what is the appropriate amount of compensation payable to the land owners for compulsory acquisition of the land.

Learned counsel for the respondent was given more than one opportunity to draw the attention of the Court to any enabling power of the competent authority to straight away recover the alleged excess payment. However, the learned counsel failed to draw the attention of the Court to any such power.

Once the matter is already pending before the Arbitrator, who has the power under the Act to determine the appropriate amount of compensation payable then it is considered appropriate to direct the Arbitrator to determine this issue as well. The National Highway Authority shall be entitled to file a counter claim before the Arbitrator within one month from today which shall be adjudicated upon alongwith the claim submitted by the land owners.

With these observations, the writ petition is disposed of.

09.02.2021

rekha

Whether speaking/reasoned

Whether Reportable

Yes /No

Yes / No

(ANIL KSHETARPAL)
JUDGE