

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 18282 of 2021

Date of Decision: 15.09.2021

Bhalender Singh Yadav

... Petitioner(s)

Versus

Union of India and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Vaneet Soni, Advocate
for the petitioner(s).

Mr. Abhilaksh Gaind, Advocate
for respondent no.1 and 2.

Mr. Samarth Sagar, Additional Advocate General,
Haryana, for respondent No.3 to 7.

Anil Kshetarpal, J.

1. Through this writ petition, the petitioner prays for the following substantive reliefs:-

“II) Issue a writ in the nature of certiorari for quashing of the award No. T-1 dated 12.08.2021 (Annexure P-14) passed by respondent No.5 as the same is violative of provisions of Section 29 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as the assessment of trees has not been got carried out by respondent No.2 from the Horticulture Department.

III) Issue a writ in the nature of writ in the nature of

mandamus to appoint an independent expert either from the Department of Horticulture, Chandigarh or Punjab being expertise in assessment of compensation of trees to survey/assess/determine the compensation of trees (about 408 trees) standing in the orchard (garden) over the land owned by the petitioner as per rules and guidelines issued and followed from time to time for assessment of compensation of trees.

- IV) Issue a writ in the nature of mandamus directing the respondents to assess/determine the compensation of bermy compost plant/unit; dripping unit; other structures etc. established by the petitioner only and only for the purpose of plantation of said trees on the land acquired as the same will be become redundant and of no use after cutting of said trees on account acquisition of land of petitioner.
- V) Further the present respondents be restrained from taking over the possession of land comprising in khewat No. 262 khasra No. 64//2/2 (0-5), 9/1 (2-3); khewat No. 262 khasra No. 64//2 (6-15), 9(0-2) total 6 kanals 15 marlas situated at village Shahpur Awal (Mandi), Tehsil Narnaul, District Mahendragarh till the payment of assessed/determined compensation of about 408 trees standing in the orchard (garden) over the land owned by the petitioner.

VI) Further stay the dispossession of present petitioner from the acquired land of present petitioner till the assessment/determination and payment of compensation as prayed for during the pendency of present writ petition”.

2. The petitioner claims that a specific piece of the land, owned by him, has been compulsorily acquired under the National Highways Act, 1956 (hereinafter referred to as “the 1956 Act”) vide an award dated 13.11.2019. However, the cost of the structure existing over the land of the petitioner was not included in the aforesaid award. The petitioner filed the Civil Writ Petition No. 17735 of 2020 (Bhalender Singh Yadav v. Union of India and Others”), which was disposed of on 14.12.2020, while directing the respondents to assess the compensation. It is not in dispute that a supplementary award has been announced by the Competent Authority, Land Acquisition, on 12.08.2021.

3. Now, through this writ petition, the petitioner assails its correctness. He claims that the amount has not been made in accordance with the parameters laid down in Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. Heard the learned counsel for the parties and with their able assistance, gone through the paper-book.

5. In the considered view of this Court, the petitioner has an equally efficacious remedy of requesting the Central Government to appoint an Arbitrator in view of the provisions of sub-Section 5 of Section 3G of the

“3G. Determination of amount payable as compensation.—

(1) to (4) XXXX XXXX XXXX XXXX

(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. It is evident that the legislature has given liberty to the owners to apply for determination of the amount from the Arbitrator, if they do not accept the assessment made by the competent authority. It is further not in dispute that the petitioner has not applied under sub Section 5 of Section 3G of the 1956 Act.

7. Keeping in view the aforesaid facts, the petitioner is relegated to the remedy provided under sub-Section 5 of Section 3G of the 1956 Act.

8. With the observations made above, the present writ petition is disposed of.

(Anil Kshetarpal)
Judge

September 15, 2021

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No