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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3861/2021**

**CHANDAN BINDAL AND ORS.**

..... Petitioners

Through: Mr. Sumit Bansal with Mr. Udaibir  
Singh Kochar and Mr. Ashray Bhatia  
Advocates.

versus

**UNION OF INDIA AND ORS.**

..... Respondents

Through: Mr. Sandeep Tyagi, Advocate for R-1  
Mr. Yeeshu Jain, Standing Counsel  
with Ms. Jyoti Tyagi, Advocate for R-  
2/LAC.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**HON'BLE MR. JUSTICE AMIT BANSAL**

**ORDER**

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**03.08.2021**

**[VIA VIDEO CONFERENCING]**

1. The seven petitioners have filed this petition, (i) seeking declaration that the act of the respondent no. 2 Competent Authority (Land Acquisition) in not considering the claims of the petitioners and rejecting the same as time barred, is arbitrary and illegal; (ii) impugning the Award dated 5<sup>th</sup> November, 2020 whereby the claims and additional submissions of the petitioners have been rejected on the ground of being time barred; and, (iii) seeking mandamus to the respondent no.2 Competent Authority, (Land Acquisition), to pass a fresh order of determination of the amount with respect to the land of the petitioners, after considering the claims and

additional submissions of the petitioners.

2. Though the petition came up first before this Court on 23<sup>rd</sup> March, 2021 and the counsels for the respondent no.2 Competent Authority, (Land Acquisition) and respondent no.3 National Highways Authority of India (NHAI) have been appearing on advance notice, but has been adjourned on as many as four occasions.

3. We have heard the counsel for the petitioners and the counsels for the respondents appearing on advance notice.

4. The land of the petitioners was acquired under the National Highways Act, 1956. The grievance of the petitioners is, that the Competent Authority within the meaning of Section 3(a) and Section 3G(4) of the said Act, while determining the compensation payable to the petitioners, has not considered the claims of the petitioners and rather, wrongly dismissed the same as time barred. The petitioners thus seek setting aside of the determination carried out by the Competent Authority under Section 3G(4) of the National Highways Act and remand of the matter back to the said Competent Authority for fresh determination, after taking into consideration the claims filed by the petitioners and not considered in the earlier determination.

5. Section 3G(4) requires persons interested in the land being acquired to appear in person or by an agent or by a legal practitioner before the Competent Authority, “at the time and place”, to state the nature of their respective interests in the land.

6. It is not in dispute that the petitioners filed their claims, after the date prescribed in the notice inviting the same. It is however the contention of the counsel for the petitioners, that since the claims had been presented prior to consideration by the Competent Authority, the Competent Authority ought

to have determined the compensation after dealing with the said claims and giving reasons for not accepting the same. It is argued that such determination by Competent Authority without considering the claims of the petitioners and rejecting the same as time barred, has resulted in the determination of the compensation at a very low value. It is contended that had the claims of the petitioners backed by documents been considered, the determination would have been much higher.

7. Section 3G(5) entitles a person interested in the land and to whom the determination of compensation by the Competent Authority is not acceptable, to make an application therefor and provides for determination of the compensation by an Arbitrator to be appointed by the Central Government.

8. We have thus enquired from the counsel for the petitioners, whether not it is apposite in the facts and circumstances of the case to, rather than entertaining this petition and after completion of pleadings, adjudicating whether the matter of determination of compensation is required to be remanded back to the Competent Authority or not, and all of which will take time, to expedite the arbitration under Section 3G(5) of the National Highways Act.

9. The counsel for the petitioners initially opposed our aforesaid suggestion and which has resulted in our having to hear the counsels for the respondents. The counsel for the respondents has opposed the petition vehemently, by referring to *National Highways Authority of India Vs. Sayedabad Tea Company Limited* (2020) 15 SCC 161, *Anubhav Chand Kathuria Vs. Union of India* 2019 SCC OnLine Del 7307, *Prem Sukh Bothra Vs. Office of the Competent Authority* MANU/DE/0053/2021 (DB)

and *Manju Arora Vs. Union of India* MANU/DE/1561/2020 (DB) and by contending that the petitioners, prior to preferring this petition have already invoked the mechanism of Section 3G(5) and the petitioners cannot claim the same relief before two forums. However the counsel for the petitioners at the stage of his rejoinder arguments is agreeable to the course of action suggested by us.

10. On enquiry, it is informed that the Arbitrator to be appointed by the Central Government under Section 3G(5) of the National Highways Act is the concerned District Magistrate (DM). On further enquiry, it is informed that such appointment has not been made as yet.

11. On further enquiry, the counsel for the petitioners states that such arbitrations, at times remain pending for long.

12. Taking into consideration the grievance of the petitioners, of their claims having been wrongly rejected as time barred, without consideration by the Competent Authority and which if had been considered would have resulted in the petitioners being entitled to substantially more compensation at the threshold, it is deemed expedient to expedite the arbitration.

13. The petition is thus disposed of, keeping open the question of law raised therein, and (i) by directing the Central Government to, if has not already appointed the concerned DM as the Arbitrator under Section 3G(5), appoint the Arbitrator thereunder on or before 30<sup>th</sup> August, 2021; and, (ii) by directing the Arbitrator to determine the compensation, ignoring the rejection by the respondent no.2 Competent Authority, (Land Acquisition) of the claims of the petitioners as time barred and by taking into consideration the said claims as well as fresh claims if any made/fresh material if any placed on record by the petitioners as well as the

respondents; and, (iii) by directing the Arbitrator within the meaning of Section 3G(5) of the National Highways Act, to render his decision on or before 1<sup>st</sup> September, 2022.

**RAJIV SAHAI ENDLAW, J**

**AMIT BANSAL, J**

**AUGUST 3, 2021**

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