

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

**FAO No. 1530 of 2019 (O&M)
Date of Decision: 06.04.2022**

SUNDER

..... Appellant(s)

Versus

STATE OF HARYANA AND ANOTHER

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Shailender Jain, Senior Advocate with
Mr. Satyendra Chauhan, Advocate
for the appellant.

LISA GILL, J.

This appeal has been filed by the appellant/land owner challenging order dated 11.05.2018, passed by the learned Additional District Judge, Palwal, whereby compensation awarded by the learned Arbitrator vide award dated 06.04.2016 was upheld and not enhanced though Award dated 06.04.2016 was set aside to the extent that the learned Arbitrator failed to consider and adjudicate upon grant of solatium and interest as part of the compensation, with liberty to the parties to approach the learned Arbitrator to consider afresh the question of grant of solatium and interest as part of the compensation and decide the matter afresh keeping in view the observations in the order. Appellant being aggrieved has filed this appeal.

Brief facts as set forth are that appellant's land was acquired by the National Highway Authority under the provisions of National Highway Act, 1956, vide notification dated 23.11.2009. Award dated 22.12.2010 was passed, wherein compensation @ Rs.70 lacs per acre within two acres of the road and Rs.60 lacs per acre beyond two acres was awarded. Land owners being dissatisfied with the award preferred objections on which the

compensation was enhanced. The National Highway Authority aggrieved with the enhancement, preferred objections, which were allowed and a fresh award dated 06.04.2016 was passed qua which the land owners filed petition/s under Section 34 of the Arbitration and Conciliation Act, 1996 primarily on two grounds that firstly the Arbitrator did not reasonably evaluate the market price in the locality and furthermore no solatium or interest was awarded. Learned Additional District Judge, Palwal, finding no ground in the first contention observed as under:-

“4. Now as a matter of established law, an arbitral award can be set aside only on the ground mentioned in Section 34(2) and (3) of the Arbitration and Conciliation Act 1996. Objecting Court has to ex-amine only whether any ground has been made out by the objector for setting aside the award as mentioned under Section 34(2) (a) and (b) of the Arbitration and Conciliation Act 1996. In Navodaya Mass Entertainment Ltd. Vs. J.M. Combines (2015) 5 SCC 698, it was held by Hon'ble Supreme Court that reappraisal of material on record by court and substituting its own view in place of arbitrator's view is not permissible in absence of perversity. Merely because two views are possible, the court cannot reappraise the matter, once arbitrator has applied his mind to said matter, as if it was an appeal. Even if two views are possible, view taken by arbitrator will prevail.”

Learned counsel for the appellant at the outset submits that keeping in view the various judicial pronouncements and the recent judgment of the Hon'ble Supreme Court in ***Project Director, National Highways No.45-E and 220 National Highways Authority of India Vs. M. Hakeem and another, 2021 AIR (SC) 3471***, the appellant may be permitted to withdraw this appeal with liberty to the appellant to comply with the direction as contained in order dated 11.05.2018.

Keeping in view the specific request addressed on behalf of the appellant, this appeal is dismissed as withdrawn with liberty to the appellant to approach the Arbitrator in terms of order dated 11.05.2018. There is a delay of 27 days in re-filing of this appeal which is clearly rendered academic in view of the above. Application is disposed of accordingly.

06.04.2022
Sunil

(Lisa Gill)
Judge

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No