

In the High Court of Punjab and Haryana, at Chandigarh

**Review Application No. CW-68 of 2022 In
Civil Writ Petition No. 3481 of 2022**

Date of Decision: 28.04.2022

Smt. Dharmo Devi and Others

... Petitioner(s)

Versus

Union of India and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Navjot Singh, Advocate
for the applicant/petitioner(s).

Mr. Abhilaksh Gaind and Mr. Rakesh Roy, Advocates
for the non-applicant/NHAI.

Anil Kshetarpal, J.

1. The learned counsel representing the applicant/petitioners, in support of the review application, submits that this Court has wrongly noticed that the first appeal, filed at the behest of various other owners, was decided on 10.02.2016, whereas the correct date is 08.11.2019.

2. In substance, this Court has noticed that the petitioners have an alternative statutory remedy under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the 1996 Act”), particularly when the Arbitrator, appointed in the case filed by the applicant/petitioners, has already given its award. As per sub-Section 6 to Section 3-G of the National Highways Act, 1956 (hereinafter referred to as “the 1956 Act”), the provisions of the 1996 Act shall apply to every arbitration under the 1956 Act. Section 3-G of the 1956 is extracted as

“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”.

3. Once the provisions of the 1996 Act are applicable, the correctness of the award, passed by the Arbitrator, can be examined in accordance with the provisions of Section 34 of the 1996 Act.

4. With the aforesaid clarification, the present review application is dismissed.

(Anil Kshetarpal)
Judge

April 28, 2022
“DK”

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