

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

141

CWP No.9025 of 2022
Date of Order: 02.05.2022

Dr. Artinder Kaur

..Petitioner

Versus

Union of India and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gagneshwar Walia, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

The dispute is with regard to the entitlement of compensation for compulsorily acquisition of the land under the National Highway Act, 1956.

The competent authority has passed an award treating the land to be commercial, whereas the Union of India claims that the acquired land is an agricultural land.

As per Section 3(G)(5), the Arbitrator is required to determine the amount payable to the landowners, if the dispute arises between the parties.

The learned counsel representing the petitioner contends that the Union of India, if so advised, may file an application under Section 3(G) of the National Highway Act, 1956.

In the present case, vide communication dated 17.02.2022, the National Highway Authority has not accepted the award passed by the competent authority and taken a stand that the land is an agricultural land.

Section 3(G) is extracted as under:-

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.”

Keeping in view the aforesaid facts, this Court is of the considered view that the matter requires detailed investigation and enquiry.

The 1956 Act provides for a dispute resolution mechanism before the Arbitrator.

Keeping in view the aforesaid facts, the Central Government is directed to refer the matter to the Arbitrator for adjudication, within a period of 3 months, from today.

Disposed of accordingly.

Since, this order has been passed without issuing notice, the respondents shall have liberty to file an application for revival.

All the pending miscellaneous applications, if any, are also disposed of.

May 02, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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