

**142-1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1.CWP-12169-2022 (O&M)

National Highway Authority of India

....Petitioner

Versus

The Competent Authority, Land Acquisition-cum-District Revenue
Officer, Ludhiana and others

..Respondents

2.CWP-12180-2022 (O&M)

National Highway Authority of India

....Petitioner

Versus

The Competent Authority, Land Acquisition-cum-District Revenue
Officer, Ludhiana and others

..Respondents

3.CWP-12348-2022 (O&M)

National Highway Authority of India

....Petitioner

Versus

The Competent Authority, Land Acquisition-cum-District Revenue
Officer, Ludhiana and others

..Respondents

Date of decision: 31.05.2022

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.K.Singal, Advocate for the petitioner

ANIL KSHETARPAL, J (Oral)

This order shall dispose of three Civil Writ Petitions i.e
CWP-12169-2022, 12180-2022 and 12348-2022 involving identical
issue.

National Highway Authority of India (hereinafter referred to
as 'NHAI') prays for quashing of corrigendum award no.79 dated
30.12.2021 passed by the competent authority, Land Acquisition-cum-
District Revenue Officer, Ludhiana. Union of India, on the request of

the NHAI, has acquired the land. The Land Acquisition Collector originally passed the award on 01.07.2021. By a corrigendum award no.79 dated 30.12.2021 the competent authority has modified the award to the extent that certain parcel of land, which was previously assessed as agricultural land, has now been assessed as the land used for residential/commercial purpose. As per Section 3G of the National Highways Act, 1956, if the amount determined by the competent authority is not acceptable to either of the parties, then on the application, the Central Government is required to refer the matter to the Arbitrator. Section 3G of the National Highways Act, 1956, 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.]”

In substance, the petitioner challenges the correctness of the assessment made by the competent authority. Such matter can be

decided by the Arbitrator, who is to be appointed by the Central Government. At this stage, entertaining a writ petition shall not bring finality to the dispute.

Learned counsel representing the petitioner contends that similar writ petitions are pending in the Court. He further submits that Madhya Pradesh High Court in **Smt. Indrakala Agarwal and others vs. State of Madhya Pradesh and others'** has concluded that the competent authority without the enabling power, has no power to review.

This Court has considered the submission. As per the scheme of the Act, the amount is to be assessed by the Arbitrator, nominated by the Central Government. The Arbitrator has been conferred with the same powers as are available to the Reference Court appointed under the Land Acquisition Act, 1894 or the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Ultimately, the dispute between the parties is with regard to the correct assessment of the nature of the land as well as its market value. Since such matter lies within the domain of the Arbitrator which is the statutory Arbitrator it is considered appropriate to relegate the petitioner to the remedy before the Arbitrator.

Disposed of.

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

31.05.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE