

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 19152 of 2022

Date of Decision: 29.08.2022

Swaran Singh

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Shubham Goyal, Advocate
for the petitioner(s).

Mr. Sanjay Chopra, Deputy Advocate General,
Punjab, for the respondent No.1 to 3.

Anil Kshetarpal, J.

1. Through this writ petition filed under Article 226/227 of the Constitution of India, the petitioner prays for issuance of a writ in the nature of mandamus to direct the Competent Authority-cum-District Revenue Officer, Jalandhar, to decide his objections.

2. The petitioner claims that he is an exclusive owner in possession of a certain piece of land which has been acquired by the Central Government in exercise of the powers under the National Highways Act, 1956 (hereinafter referred to as “the 1956 Act”) vide award dated 27.05.2021. He further claims that initially, the property was joint between the two brothers, however, on account of the family settlement dated 27.10.1987, the land measuring 78 kanals and 18 marlas fell into his share.

The acquired land is out of the aforesaid share.

evident that the petitioner has already prayed to the Competent Authority-cum-District Revenue Officer, Jalandhar, to refer the matter to the Court. Section 3H(4) of the 1956 Act, the competent authority is required to refer the dispute to the decision of the Principal Civil Court of original jurisdiction, if any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable. Section 3H of the 1956 Act is extracted as under:-

“3H. Deposit and payment of amount.—

(1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section(1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the

land is situated.

(5) Where the amount determined under section 3G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent, per annum on such excess amount from the date of taking possession under section 3D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section(5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections(2) to (4) shall apply to such deposit”.

4. Keeping in view the aforesaid facts, the writ petition is disposed of while directing the competent authority to forward the reference along with the amount to the competent Court. Since this order has been passed without issuing notice to respondent No.4, as a result of, he will be at liberty to file an application for recall, if so advised.

(Anil Kshetarpal)
Judge

August 29, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No