

In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Writ Petition No. 24026 of 2022

Gaurav Jain and Others
... Petitioner(s)

Versus

National Highway Authority of India and Another
... Respondent(s)

AND

2. Civil Writ Petition No. 23575 of 2022

Veer Colonisers and Builders Private Limited and Another
... Petitioner(s)

Versus

Union of India and Others
... Respondent(s)

DATE OF DECISION: 18.11.2022

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. V.K.Jindal, Senior Advocate
with Mr. Samar P.S.Ahluwalia, Advocate
for the petitioners (In CWP-24026-2022).

Mr. Alok Jain, Advocate
for the petitioners (In CWP-23575-2022).

Mr. Rishi Kaushal, Advocate
for the respondent No.1 (In CWP-24026-2022).

Mr. Sandeep Chopra, Deputy Advocate General,
Punjab, for the respondent No.2 (In CWP-24026-2022).

Anil Kshetarpal, J.

1. These two connected writ petitions filed while invoking the writ jurisdiction under Article 226/227 of the Constitution of India have come up

for disposal. The petitioners in both the writ petitions have assailed the

correctness of the corrigendum and the impugned award passed by the Competent Authority for Land Acquisition (hereinafter referred to as “the CALA”), wherein the award was reviewed and price determined for the acquired land was reduced.

2. In both the cases, the petitioners’ land has been compulsorily acquired in exercise of powers of the eminent domain under the National Highways Act, 1956 (hereinafter referred to as “the 1956 Act”). Vide impugned corrigendum/order, the amount assessed by the CALA in the original award has been reduced.

3. On the one hand, the petitioners claim that the CALA had no jurisdiction to review/recall the previous award as it had become functus officio. Whereas on the other hand, the learned counsel representing the National Highways Authority submits that there was an arithmetical error in the award and in view of Section 33 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the CALA has the authority to modify the award.

4. The Land Acquisition Officer/Collector acts as “CALA” in the land acquisition matters. It exercises the quasi-judicial powers for assessing the market value of the acquired land. As per Section 3G of the 1956 Act, either of the parties can request for re-determination by the Arbitrator who is required to be appointed by the Central Government. Section 3G of the 1956 Act 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”.

5. It has been pointed out that the amount payable under the alleged modified award issued vide the impugned corrigendum has been paid by the concerned authority. This Court has also been informed that the Divisional Commissioner, Jalandhar Division, Jalandhar, has been appointed as an Arbitrator vide notification dated 23.06.2022.

6. As per the Scheme of the 1956 Act, at the first instance, the

whereas, subsequently, if the matter is referred, the Arbitrator is required to decide the matter.

7. After having heard the learned counsel representing the parties, at sufficient length, this Court is of the view that the practical solution to the aforesaid problem lies with the Arbitrator who has been statutorily recognized as an authority to re-determine the market value/compensation for the acquired land.

8. Keeping in view the aforesaid facts, both the cases are referred to the Arbitrator with a request to decide the same within a period of six months, positively, from the date the parties put in their appearance. It is observed that the Arbitrator will independently proceed to assess the compensation/market value without being influenced by the said corrigendum allegedly issued by the CALA.

9. The parties, through their learned counsel, are directed to appear before the Arbitrator (Divisional Commissioner, Jalandhar Division, Jalandhar) on 30.11.2022 at 10.00 AM. It is expected that the parties will file their statement of claim on the day of appearance before the Arbitrator so as to enable him to proceed with the matter, expeditiously.

10. With all the observations made above, both the writ petitions are disposed of.

**(Anil Kshetarpal)
Judge**

**November 18, 2022
“DK”**

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