

**144 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-27619-2022 (O&M)
Date of decision: 02.12.2022

Parshotam Singh and others

....Petitioners

Versus

Union of India and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.S.Manhas and
Mr Abhimanyu Singh, Advocate for the petitioners
Mr. Gurpreet Singh Sidhu, Addl. AG, Punjab for respondent
no.4

ANIL KSHETARPAL, J (Oral)

The petitioners claim to be the proprietors of village Bani Lodhi, Tehsil and District Pathankot. They pray for issuance of a writ in the nature of Mandamus to direct the respondents to pay the compensation to the petitioners for the acquisition of their land. The Union of India is stated to have acquired the land in exercise of its power under the National Highways Act, 1956 (hereinafter referred to as the '1956 Act'). As per the case of the petitioners, the land in the revenue record is recorded as the Jumla Mustaka Malkhan. In such circumstances, the entitlement of the petitioners, being proprietors, the questions related to their shares and other similar matters would arise. Section 3H of the 1956 Act reads as under:-

Section 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.]”

Notice of motion.

At the request of the Court, Mr Gurpreet Singh, Additional Advocate General, Punjab, accepts notice on behalf of respondent No.4.

In the facts of the case, it is considered appropriate to direct the competent authority to refer the matter to the competent court of

jurisdiction i.e the Principal Civil Court of original jurisdiction in the District for adjudication. The competent authority would implead the Gram Panchayat/Municipal Council/Committee/Corporation as well as the State of Punjab as the party in the reference. The amount shall also be remitted to the court for passing the appropriate orders, within a period of one month, from today.

Disposed of.

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

02.12.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE