

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(277)

CWP No.2696-2023 (O&M)
Date of Decision: 17.07.2023

Bharat Bhushan and othersPetitioners
Versus

Union of India and othersRespondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. C. M. Munjal, Advocate, for the petitioners.

Mr. R. S. Madan, Advocate, for respondent Nos.1 and 2.

Mr. Shivendra Swaroop, DAG, Haryana.

HARKESH MANUJA, J.(ORAL)

1. By way of present writ petition filed under Articles 226/227 of the Constitution of India, prayer has been made for issuance of a writ in the nature of Mandamus directing the respondents to release the amount of compensation on account of acquisition of their land by respondent No.1.
2. In the present case, land owned by the petitioners, situated in Village Baluana, Tehsil Abohar, District Fazilka, was sought to be acquired vide notification dated 04.03.2020 issued under Section 3-A of the National Highways Act, 1956 (hereinafter referred to as “the Act of 1956”) followed by an Award dated 24.02.2021.
3. Aggrieved thereof, both the petitioners/land owners as well as respondent No.1 invoked arbitration under Section 3(G)(5) of the Act of 1956 which are pending consideration before the Divisional Commissioner, Ferozepur.
4. The prayer made in the present petition is that during pendency of the arbitration proceedings even an application for grant of stay regarding release of compensation amount, filed at the instance of respondent No.2

far the amount of Award has not been released in favour of petitioners.

5. On the other hand, learned counsel for respondents No.1 and 2 submits that the proceedings before the Arbitrator are at its fag end being fixed for 19.07.2023 for final determination. He further submits that the market value is yet to be determined by the Arbitrator, the reference being pending adjudication, the amount of compensation cannot be released in favour of petitioners. He further submits that considering the nature of land to be agricultural, respondent No.3 committed an error while treating it to be commercial and awarding compensation accordingly.

6. I have heard learned counsel for the petitioners and gone through the paper book. I find substance in the submissions made on behalf of the petitioners.

7. In the present case, the Award was passed by respondent No.3 initially on 24.02.2021 followed by subsequent Award on 29.04.2021 determining the amount of compensation in favour of the petitioners/land owners. Aggrieved thereof, petitioners/land-owners as well as respondent No.2 invoked arbitration under Section 3(G)(5) of the Act of 1956 wherein specific prayer for grant of stay for release of amount of compensation was made at the instance of respondent No.2 which was declined vide order dated 22.03.2022 with the following observations:

“It is clear that the Applicant has challenged the impugned Award of CALA by submitting a separate detailed Application. As no cogent ground for staying the implementation of a part of the impugned Award has been explicitly stated and the Award has been challenged by filling a separate application, I feel no useful purpose will be served by staying a part of the Award when the main application can be taken up and decided explicitly. Hence, the application is dismissed.”

8. As an effect thereof, the respondents No.1 and 2 deposited certain

amount of compensation before respondent No.3 by assessing/calculating it on the basis of the Collector rate. The aforesaid payment was deposited on 07.06.2022.

9. A perusal of the file though shows that the Award was passed on 24.02.2021 and possession of the land in question already stood delivered in favour of respondents No.1 and 2, there appears to be no justified reason for not releasing the amount of compensation as assessed by respondent No.3, in favour of petitioners/land owners, especially once the prayer for stay categorically stood declined vide order dated 22.03.2022 by the Arbitrator. Mere pendency of arbitration proceedings as regards determination/enhancement/reduction of the market value cannot be treated to be as an impediment in the release of amount of compensation awarded by respondent No.3 in favour of petitioners/land-owners in the absence of there being any specific statutory bar or any stay order passed in this regard.

10. As a result of the aforesaid discussion, respondents are directed to release the amount of compensation awarded in favour of land owners/petitioners in pursuance of the Award dated 24.02.2021 passed by the respondent No.3 within a period of two weeks from today along with interest and all other statutory benefits. In addition, the Arbitrator-cum-Divisional Commissioner, Ferozepur is requested to adjudicate the arbitration reference pending at the instance of petitioners/land owners as well as respondents No.1 and 2, preferably within a period of four weeks.

11. Pending application, if any, shall remain disposed of.

(HARKESH MANUJA)
JUDGE

17.07.2023
anil

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