

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision: 26th May, 2023

- (1) FAO No. 255 of 2022

Anita Rani

v.

Union of India and others

Appellant

Respondents
- (2) FAO No. 708 of 2021

Union of India and another

v.

Anita Rani and others

Appellants

Respondents
- (3) FAO No. 715 of 2021

Union of India and another

v.

Anita Rani and others

Appellants

Respondents
- (4) FAO No.2925 of 2021

Anita Rani

v.

Union of India and others

Appellant

(5) FAO No. 717 of 2021

Union of India and another

Appellants

v.

Anita Rani and others

Respondents

(6) FAO No. 726 of 2021

Union of India and another

Appellants

v.

Anita Rani and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vikas Chatrath, Mr. B. S. Toor, Advocate for
 Mr. K. S. Kang, Advocate for the UOI/NHAI
 Mr. B. S. Bhalla, Advocate for the land owner.
 Mr. Charanpreet Singh, AAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. This order shall dispose of above mentioned six appeals as the facts and issue involved are similar.
2. The land owner and UOI/NHAI are in appeals aggrieved of modification of the arbitral award. For the sake of convenience, facts from FAO No. 255 of 2022 are being considered.
3. The brief facts are that land of village Badrukhan, Tehsil and

District Sangrur was acquired for widening of National Highway No. 64. The competent authority determined the compensation. The arbitration proceedings initiated at the instance of the land owner culminated in award dated 17.01.2019. Both the parties filed objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the 1996 Act'). The objections of UOI/NHAI were dismissed, whereas the objections filed by the land owner were partly accepted and the award was modified by enhancing the compensation.

4. Learned counsel for UOI/NHAI *inter alia* has raised the issue that under Section 34 of the 1996 Act, the award could not have been modified. Reliance is placed on the decision of the Supreme Court in ***National Highways Authority of India v. Sri P. Nagaraju @ Cheluvaiah and another, 2022(3) RCR (Civil) 604.***

5. Learned counsel for the land owner in view of the decision of the Supreme Court is not in a position to dispute the legal position.

6. The issue involved in the present case is no longer *res integra*.

In ***Sri P. Nagaraju's case (supra)***, the Supreme Court held:

40. That being the fact situation and also the position of law being clear that it would not be open for the court in the proceedings under [Section 34](#) or in the appeal under [Section 37](#) to modify the award, the appropriate course to be adopted in such event is to set aside the award and remit the matter to the learned Arbitrator in terms of [Section 34\(4\)](#) to keep in view these aspects of the matter and even if the notification dated 28.03.2016 relied upon is justified since we have indicated that the same could be relied upon, the further aspects with regard to the appropriate market value

fixed under the said notification for the lands which is the subject matter of the acquisition or comparable lands is to be made based on appropriate evidence available before it and on assigning reasons for the conclusion to be reached by the learned Arbitrator. In that regard, all contentions of the parties are left open to be put forth before the learned Arbitrator.”

7. In view of the decision cited above, the impugned order is set aside. The matter is remanded back for deciding the objections afresh in accordance with law. There is no doubt that the court concerned considering that the acquisition is of the year 2012 shall make a sincere endeavour with the co-operation of the parties to conclude the proceedings expeditiously.
8. The appeals are disposed of.
9. Photocopy of the order be placed on the file of each connected case.

[AVNEESH JHINGAN]

JUDGE

26th May, 2023

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1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No