

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

CR-3564-2023

Date of Decision: July 17, 2023

NATIONAL HIGHWAY AUTHORITY OF INDIA

..... Petitioner

Versus

SUKHDARSHAN SINGH AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Abhilakh Gaiind, Advocate for petitioner.

HARKESH MANUJA, J. (ORAL)

1. By way of present revision petition, challenge has been laid to an order dated 01.02.2023 passed by the Addl. District Judge, Patiala whereby the petitioner has been directed to deposit enhanced amount along with requisite interest within a period of four months in terms of award dated 24.04.2020 passed by the Competent Authority-cum-Land Acquisition Collector with a further direction that 50% thereof be released in favour of landowners.

2. In the present case, the lands of the respondents was acquired vide notification dated 07.08.2013 issued under Section 3-A of the National Highways Act, 1956 (hereinafter referred to as '1956 Act') followed by another notification dated 26.02.2014 under Section 3D (1) and award under Section 3(G) was passed on 20.10.2010, whereby market value of the acquired land as regards village Kakuwala was assessed and paid at Rs.1.00,00,000/- per acre for agricultural land besides other statutory benefits.

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3. Aggrieved thereof, the landowners invoked arbitration reference under Section 3G(5) of 1956 Act wherein award was passed by the Commissioner, Patiala Division, Patiala-cum-Arbitrator on 24.04.2020 to the following effect:-

“17. Based on my above discussion of the facts and circumstances of the case and also the legal view taken by the Hon'ble Courts, I pass the following award on this application:

- a) The compensation already awarded by the Collector for agricultural land is sufficient. Any further enhancement is ruled out.
- b) The applicant is entitled to 100% solatium on the market value determined in para (a) above and also interest on solatium.
- c) The respondents are directed to make payment of the award along with interest @ 9% within one month from receipt of a copy of this award.
- d) Payment already made to be deducted from award money.”

4. The aforesaid award dated 24.04.2020 came to be challenged before the Additional District Judge, Patiala invoking Section 34 of Arbitration and Conciliation Act, 1996.

5. During pendency, an application under Section 36(2) of the Arbitration and Conciliation Act, 1996 was moved at the instance of petitioner thereby seeking stay of operation of award dated 24.04.2020, passed by Arbitrator. The said application came to be disposed of vide order dated 01.02.2023 which has now been impugned by way of present revision petition. The operative part of impugned order dated 01.02.2023 is reproduced hereunder:-

“11. However, applying the yardsticks of the above referred authorities and in view of arguments of learned counsel for UOI and NHAI and in the interest of justice, the present application filed under Section 36 (2) of the Arbitration and Conciliation Act is allowed and operation of the award dated 24.4.2020 is stayed till the disposal of the objection petition under Section 34 of the Act. However, same is subject to the deposit of entire enhanced awarded amount alongwith requisite interest, within four months, in terms of the award dated 24.4.2020 of learned Arbitrator, before the

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CALA and 50% of amount shall be released to the land owners subject to their furnishing indemnity bonds of double of the amount with one surety of the like amount, as per award dated 24.4.2020 and balance of the 50% amount be kept in the shape of FDR and not to be released till final disposal of the petition under Section 34 of the Act. The application is accordingly allowed in the aforesaid terms."

6. Learned counsel for the petitioner vehemently submits that neither the landowners are entitled for the benefit under Section 23(1A) of Land Acquisition Act, 1894 nor they could have been awarded solatium to the tune of 100% as the award in the present case was passed on 20.10.2014 and the amount in pursuance thereof, stood deposited with the Competent Authority-Cum-Land Acquisition Collector even before 01.01.2015 i.e the date of notification as regards the applicability of the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. He further points out that in case, the amount is directed by the Court below is permitted to be released in favour of landowners/respondents, eventually the petition filed under section 34 would be rendered infructuous. He also submits that award dated 24.04.2020 by the Arbitrator was passed in the absence of petitioner being at their back, during lockdown period /COVID-19.

7. I have heard learned counsel for the petitioner and gone through the paper-book as well as the impugned order.

8. From perusal of impugned order, it can be seen that the rights of the petitioner has been duly safeguarded while directing the landowners to furnish indemnity bonds of the double of the amount with one surety in the like amount against release of 50% of the amount

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awarded by the Ld. Arbitrator vide its award dated 24.04.2020. Moreover, the plea of non-entitlement of landowners/respondents as regards the benefit of Section 23(1A) besides solatium @ 100% are in fact the subject matter of adjudication in the proceedings under Section 34 which is pending before the Court below and thus any observation made thereupon at this stage would amount to prejudging the issue thereby causing prejudice to the rights of the parties.

9. Equally important, the Court below in exercise of proviso to Sub-Section 3 of Section 36 of Arbitration and Conciliation Act, 1996 is fully empowered to impose conditions as it may deem fit while granting stay of the operation of the award. At the cost of repetition, it may be pointed out that by calling upon landowners/respondents to furnish indemnity bonds of double of the amount, rights of petitioner already stand safeguarded.

10. Accordingly I do not find any illegality or perversity in the order dated 01.02.2023 passed by trial Court.

11. Keeping in view the aforesaid, the present petition is dismissed.

17.07.2023
tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>