

FAO No. 1404 of 2015 and connected case [1]

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

Date of decision: 1st March, 2023

(1) FAO No. 1404 of 2015 (O&M)

Government of India and another

Appellants

Versus

Jodh Singh and another

Respondents

(2) FAO No.793 of 2017 (O&M)

Union of India and another

Appellants

Versus

Narinder Singh and others

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R. S. Madan, Advocate for the appellants.
Mr. Dheeraj Mahajan, Advocate for the respondent No. 1
in FAO No. 1404 of 2015.
Mr. Sumit Kalyan, Advocate for Mr. Bhanu Pratap Singh,
Advocate for respondent No. 1 in FAO No. 793 of 2017

AVNEESH JHINGAN, J (Oral):

These two appeals are filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') aggrieved of the decision on the objections under Section 34 of the Act.

As the land is of the same village, the issues involved are similar, both these appeals are being decided together.

For the sake of convenience, facts are being taken from FAO No. 1404 of 2015.

The land of respondent No. 1 (hereinafter referred to as 'the respondent') measuring one kanal and eight marlas in village Lameen, Tehsil Dasuya, District Hoshiarpur was acquired for widening and four laning of Jalandhar-Pathankot section of National Highway No. 1/A. The

value of the land was determined by Competent Authority for Land Acquisition. The arbitration proceedings were initiated at the instance of the respondent. The proceedings culminated in award dated 17.2.2011 and the respondent was granted following amounts:-

- (i) Land price was enhanced to Rs.1,25,000/- per marla upto 25 feet deep along with GT Road and Rs.62,500/- per marla beyond 25 feet depth.
- (ii) Severance compensation @ Rs.1,00,000/- per Khasra and
- (iii) Loss of income/business @ 5,000/- per marla.

It was further ordered that the enhanced price shall be paid along with interest @ 9% per annum from the date of taking possession till the payment is made and in case of delay interest @15% per annum.

The Union of India aggrieved of the award preferred objections under Section 34 of the Act which were dismissed vide order dated 17.1.2015, hence the present appeal.

Learned counsel for the appellant poses challenge to the enhanced land value. It is argued that the arbitrator went beyond the claim in granting severance compensation and loss of income.

Learned counsel for the respondent relies upon the judgment of this Court in ***FAO No. 2513 of 2016-- Union of India and another v. Kashmir Multani and another, FAO No. 2513 of 2016, decided on 3.5.2016***. The contention is that appeal of Union of India challenging the enhancement of the land value of the same very village of this acquisition was dismissed and it has attained finality. He fairly submits that there was no pleading or evidence before the arbitrator with regard to severance and loss of income.

The Union of India had accepted enhanced value of the land as determined by the arbitrator for land relating to this village acquired in same acquisition, it would not be open for the appellant to challenge on the same in the case of other land holders of the same village.

In view of the admitted position that relief Nos. (ii) and (iii) awarded by the arbitrator was beyond the pleadings and evidence adduced, the award cannot be sustained. Consequently, the impugned order and the award are set aside.

The appeals are allowed.

The parties are at liberty to avail remedies in accordance with law.

There is no doubt that in the eventuality of parties availing the remedies, the forum concerned considering that the acquisition is of the year 2004 would deal the same expeditiously.

Since the main appeals have been disposed of, pending application(s), if any, is rendered infructuous.

Photocopy of the order be placed on the file of connected case.

1st March, 2023

mk

[AVNEESH JHINGAN]

JUDGE

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No