

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CR-4935-2023 (O&M)
Date of Decision:-28.8.2023

National Highways Authority of IndiaPetitioner

Versus

Raj Pal and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vikas Chatrath, Advocate;
Mr. B.P.S. Thakur, Advocate and
Mr. Abhi Sher Singh, Advocate for the petitioner.

Mr. Priyavrat Parashar, Advocate for respondents No.1 to 9.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner herein assails order dated 8.12.2022 (Annexure P-5) passed by learned Additional Sessions Judge, Kaithal, vide which the objections filed by the petitioner to execution petition have been dismissed.
2. A few facts necessary to notice for disposal of this petition are that the land belonging to respondents No.1 to 9 as well as some other land owners had been acquired by the petitioner - National Highways Authority of India for widening National Highway No.152 (Kaithal - Narwana Section). The competent authority passed its award on 17.3.2015. While some other landowners filed application under Section 3G(5) of National Highway Act, 1956 and invoked arbitration for enhancement of the award, respondents No.1

to 9 had not moved any such application under Section 3G(5) of National Highway Act, 1956. The Arbitrator-cum-Additional Deputy Commissioner, Kaithal, while disposing of the matter in respect of the other landowners, passed his award dated 24.5.2019 (Annexure P-2), wherein the market value of the land was not enhanced but the solatium as had been granted by Competent Authority, Land Acquisition @30% was enhanced to 100% in terms of letter No.11011/30/2015-LA dated 29.4.2015. The said other landowners were accordingly paid the enhanced solatium. It was thereafter that respondent No.1 to 9 alongwith some other landowners, who had approached the Arbitrator, moved an execution petition before the District Judge, Kaithal for enforcement of award dated 24.5.2019 passed by the Arbitrator-cum-Additional Deputy Commissioner, Kaithal in respect of the other landowners. The petitioner - NHAI filed objections against the execution petition mainly on the ground that the execution was not maintainable as they were not party before the Arbitrator-cum-Additional Deputy Commissioner, Kaithal and had never challenged the compensation as awarded by Competent Authority, Land Acquisition. The Executing Court considered the submissions and while placing reliance upon a judgment passed by Hon'ble the Apex Court rendered in Union of India and another Versus Tarsem Singh and others, 2019 (9) SCC 304, dismissed the objection petition.

3. Learned counsel representing the petitioner submitted that the impugned order 8.12.2022 (Annexure P-5) cannot sustain inasmuch as there was no award of the Arbitrator in favour of the private respondents, who had never ever approached the arbitrator seeking any kind of enhancement and that the award passed in favour of some other landowners cannot be executed on the

same terms in respect of the landowners, who had never chosen to approach the Arbitrator seeking any kind of enhancement.

4. This Court has considered the rival submissions addressed before this Court.
5. While it may be correct that the private respondents had not approached the Arbitrator seeking any kind of enhancement of compensation, but the present case is a case where the market value of land was not enhanced by the Arbitrator and it is only the other statutory benefits i.e. the quantum of solatium, which has been enhanced from 30% to 100% as per letter No.11011/30/2015-LA dated 29.4.2015. The statutory benefits flow automatically once the market value of the land has been assessed. The petitioner is expected to be fair in the matter of payment of compensation for acquired land and not raise hurdles on the basis of technicalities. Once a decision has been taken raising the quantum of solatium from 30% to 100%, it was expected of the petitioner to have itself deposited the enhanced rate of solatium in the bank accounts of the landowners rather than forcing the landowners to move an execution petition. Still further, this Court finds that even after the Executing Court had passed an order, the petitioner – NHAI has chosen to approach this Court by way of filing the instant petition. This Court can hardly appreciate such like conduct on the part of the petitioner. The petition is sans merit and is hereby dismissed.

28.8.2023

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No