

**216-2 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-2090-2017 (O&M)

Date of Decision: 21st March, 2023

Union of India and another

... Appellants

Versus

Bhag Ali and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ish Puneet Singh, Advocate for the appellants.
Mr. G.N.Malik, Advocate for respondent No.1.

AVNEESH JHINGAN , J.(Oral)

CM-6986-CII-2017

1. This is an application for condonation of delay of 9 days in filing the appeal.

2. For the reasons recorded in the application, the same is allowed and delay of 9 days in filing the appeal is condoned.

Main case

3. This appeal is filed aggrieved of order dated 5.12.2016 dismissing the objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act').

4. Brief facts are that land of the father of the respondent No.1 situated in village Bharoli Kalan, Tehsil-Pathankot and District Gurdaspur was acquired for widening and four-laning of National Highway No.-1/A. Dissatisfied with the compensation determined by the competent authority, arbitration proceedings were initiated at instance of respondents which culminated into award dated 15.10.2009. In the objections filed by Union of India(UOI)/National Highway Authority of India(NHAI) vide

order dated 23.11.2010 the award was set aside and the matter was remanded back. On 25.7.2011, the award was passed after remand. The objections filed by UOI/NHAI were dismissed on 5.12.2016. Hence, the present appeal is filed.

5. Learned counsel for the appellants submits that respondent No.1 had not claimed compensation for the land as it was owned by his father yet the arbitrator enhanced the compensation for land @ Rs.70,000/- per Marla. It is further argued that in spite of giving specific finding that there was no evidence for loss of business yet the amount was granted to compensate loss of business. Further that without any basis, the compensation for structure was enhanced.

6. Learned counsel for the respondent No.1 defends the award and impugned order.

7. Heard learned counsel for the parties and perused the relevant record produced by the parties.

8. It is not disputed that the respondent No.1 had not claimed any compensation for land and further that there was no evidence adduced with regard to loss of business.

9. The award was passed without considering the evidence on record. As per Section 31(3) of the Act, the Arbitrator has to record reasons for supporting the conclusion arrived at. The only exception being where the party agrees that no such reasons are required. It is not the case where the party have agreed to non-recording of the reason. The amounts awarded are in contradiction with the findings recorded, there are no reasons to support the amount awarded. Resultantly, the impugned order

and award are set aside.

10. Needless to say that the parties would be at liberty to avail remedies in accordance with law including initiation of fresh arbitration proceedings.

11. In eventuality of initiation of fresh arbitration proceedings, there is no doubt that the arbitrator considering that the acquisition is of the year 2004, with the co-operation of the parties shall make an earnest effort to dispose of the arbitration proceedings. The parties shall be at liberty to make a request before the Arbitrator for expeditious disposal.

12. Since the main case has been decided, the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

21st March, 2023
anuradha

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