

222 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-3867-2017 (O&M)

Date of Decision: 20th March, 2023

Union of India and another

... Appellants

Versus

Surjit Chand and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Ish Puneet Singh, Advocate for the appellants.

Mr. Harsh Mahajan, Advocate for respondent No.1.

Mr. Charanpreet Singh, AAG, Punjab.

AVNEESH JHINGAN , J.(Oral)

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the 1996 Act') is filed aggrieved of order dated 8th March, 2017 dismissing the objections under Section 34 of the Act.

2. The brief facts are that the share of the respondent No.1 (hereinafter referred as 'respondent') in the joint estate situated in Madhopur, Tehsil and District Pathakot was acquired for four laning of Jalandhr-Mukerian section of National Highways No.1/A. The notification under Section 3-A of National Highways Act, 1956 (for short '1956 Act') was issued on 5th October, 2005 and thereafter notification under Section 3-D was published in the newspaper. The Competent Authority determined the compensation. At the instance of the respondent, the matter was referred for arbitration under Section 3-G (5) of the 1956 Act. The arbitrator awarded Rs. 1,00,000/- per marla, taking into consideration that

was determined at Rs. 1,00,000/-. Respondent was held entitled to amount under Section 23(1-A) of Land Acquisition Act, 1894 (for short 'the 1894 Act') and further interest was awarded under Section 28 of the 1894 Act.

3. The objections filed by Union of India were dismissed on 8th March, 2017.

4. Learned counsel for the appellants submits that arbitrator erred in awarding the compensation at the rate of rupees one lac per marla. He further submits that no amount could be awarded under Section 23(1-A) of the 1894 Act and the grievance is that the interest awarded is not in consonance with provisions of the 1894.

5. Learned counsel for the respondents submits that value of the land was determined on the basis of evidence adduced. He on instructions further submits that in view of the decision of Supreme Court in ***National Highway Authority of India and another V. Tehal Singh and others, 2021 SCC Online SC 3175, Misc. Diary No. 2572 of 2020 in Civil Appeal No. 7086 of 2019***, the respondent is not claiming the amount under Section 23 (1-A) of 1894 Act and will only claim interest as per the provision of Section 28 of 1894 Act.

6. The law is well settled that the land owners are entitled to interest and solatium, reference is made to ***M/s Golden Iron and Steel Forging v. Union of India and others, 2011(4) RCR (Civil) 375*** and ***Union of India and another v. Tarsem Singh and others, 2019(9) SCC 304***.

7. In view of the statement made by learned counsel for the respondent and there being consensus between parties on all other issues, the only issue surviving in the present appeal is with regard to value of

8. The scope of interference under Section 37 of the Act is limited reference in this regard is made to the decision of *Supreme Court* in ***Haryana Tourism Ltd. Vs. M/s Kandhari Beverages Ltd. 2022 (3) SCC 237.***

9. From the perusal of the record, it is evident that the value of the land was determined on the basis of the evidence adduced by the land owner and no evidence to contrary was produced by appellants. It would be relevant to note that the ground of challenge to the valuation of the land under Section 34 of the Act was as under:-

“(b) The Ld. Arbitration-cum-Commissioner, Jalandhar Division has wrongly, arbitrarily and illegally awarded and enhanced the compensation of the land Rs.1,00,000/- per marla for commercial land. As per the proviso of 3G(7)(a) while determining the compensation, the market value of the land on the date of publication of the notification under Section 3A shall be taken into consideration.”

10. There is nothing on record to substantiate that value of land as on date of the notification issued under Section 3-A of the 1956 Act was not determined. The contention raised by the learned counsel for the appellants *vis-a-vis* the valuation of the land lacks merit, the arbitrator relied upon evidence produced by respondent.

11. No case is made out for interference under Section 37 of the Act. The appeal is accordingly disposed of.

12. In view of the discussion above, the respondent shall be entitled to amount of Rs.1,00,000/- per marla as granted by the arbitrator.

Further he shall be entitled to interest and solatium as per the decisions in

(supra) as also interest granted under Section 31 of the 1996 Act.

(AVNEESH JHINGAN)
JUDGE

20th March, 2023

<i>Parveen Sharma</i>	Whether reasoned/speaking	Yes/No
	Whether reportable	Yes/No