

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4564 of 2017 (O&M)

DECIDED ON: 8th February, 2023

Harbhajan Singh (deceased) through LRs

.....APPELLANTS

VERSUS

Union of Indian and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. V.K. Jindal, Senior Advocate with
Mr. R.K. Arya, Advocate for appellants.

Mr. Ish Puneet Singh, Advocate for respondent-NHAI

AVNEESH JHINGAN, J (ORAL)

This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') is filed aggrieved of dismissal of objections under Section 34 of the Act.

The facts in brief are that the land of the appellant measuring 2 kanals 19 marlas situated at village Khokhar Fauji was acquired by National Highway Authority of India (for short 'NHAI') for widening/Four Laning of National Highway No.15. Compensation was determined and paid. The compensation was enhanced vide award dated 19.6.2013. The objections filed under Section 34 of the Act were dismissed on 12.7.2016.

The only dispute raised by learned Senior counsel appearing for appellant is that *inspite of* the evidence on record that there was a petrol pump on the acquired land, no compensation was awarded for the structural loss and loss of business. Reliance is placed on the admission of NHAI in the reply filed. The relevant part of the same is reproduced below:-

"As per Section 3 G (7)(c) of the National Highway
Act 1956 the compensation is worked out as under:-

The superstructure on the land is a proven fact:

- a) Payment for cost of structure made by NHAI is not clear from the award of Land Acquisition Collector.
- b) Photographs show that there was petrol pump on the acquired land.
- c) Revenue record (Jamabandi) proves that the land acquired is commercial.
- d) In the reply it is admitted by NHAI that there was a petrol pump/commercial land on the acquired land.

All these facts are not denied/rebutted by the respondent. Even the Ld. Counsel for NHAI on 27/9/2012 signed a declaration that he have nothing to say/submit in this case. Thereof the claim of the petitioner goes unrebutted.

Thus land is proved as commercial and structure loss/business loss stands also proved. Since nothing is paid for structure so far by NHAI therefore nothing is awarded on this Issue. The applicant is at liberty to file fresh application for structure loss if he is not adequately compensated."

Learned counsel for respondent-UOI submits that the appellant was granted liberty to file a fresh claim and instead of filing the fresh claim, the appeal has been preferred.

Learned Senior counsel appearing for appellants submits that he is not pressing the appeal at this stage with liberty to file a fresh claim with regard to non grant of compensation for loss of business and structural loss.

The appeal is disposed of as not pressed with liberty to appellants to file a fresh claim for structural loss and business loss in consonance with the liberty provided in the award.

There is no doubt that in the eventuality of appellant's filing application, the same would be considered in accordance with law.

Since the main case has been disposed of, pending application, if any is rendered infructuous.

8th February, 2023
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(AVNEESH JHINGAN)
JUDGE

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