

LPA No.1828 of 2023

123

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.1828 of 2023
Decided on :22.11.2023

Bimla @ Bimla Devi

.....Appellant

VERSUS

Union of India & Ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. S.S. Dinarpur, Advocate
for the appellant.

DEEPAK SIBAL, J (ORAL)

1 Through a notification issued under Section 3-A of the National Highway Act, 1956 (for short ‘the 1956 Act’) the appellant’s land measuring 7 kanal 4 marla comprised in Khewat No.420 min, rect. No.88 killa No.1/1(3K-4M), 1/2(4K-0M) situated in the revenue estate of Village Nirjan, Teshil and District Jind, was proposed to be acquired. The proposed acquisition was for the construction of National Highway-352A. The appellant filed her objections to the proposed acquisition. Her objections were rejected resulting in the issuance of a notification under Section 3-D of the 1956 Act, acquiring the appellant’s aforesaid land. Thereafter, through an order dated 22.01.2019, the Competent Authority determined the compensation payable to the appellant in lieu for her acquired land.

However, the appellant claimed a higher amount. Therefore, on an application moved by her, the appellant's claim for higher compensation, under Section 3-G(5) of the Act, was referred to be decided by an Arbitrator. At that stage, the appellant approached this Court through CWP No.12735 of 2022 seeking therein issuance of directions to the Competent Authority to redetermine the payable compensation by treating her acquired land as 'gair mumkin factory' instead of 'agricultural'. However, since after filing of the appellant's writ petition, to go into the appellant's claim for higher compensation, an Arbitrator had already been appointed, her writ petition was disposed of by this Court on 02.06.2022 granting her liberty to raise the issue with regard to treating of her land as 'gair mumkin factory' before the Arbitrator. The appellant's claim was disposed of by the Arbitrator through his award dated 05.12.2022. The appellant was not satisfied by the compensation granted to her by the Arbitrator. Therefore, she challenged the Arbitrator's award through an appeal filed by her under Section 34 of the Arbitration and Conciliation Act, 1996 (for short-the 1996 Act). During the pendency of said appeal, the appellant again knocked the doors of this Court through another writ petition seeking therein issuance of directions to the respondents to treat the land of the appellant as 'gair mumkin factory' instead of 'agricultural' and accordingly modify the compensation granted to her by the Competent Authority as also the Arbitrator. The Learned Single Judge dismissed the appellant's petition primarily for the reason that the appellant had already challenged the award passed by the Arbitrator through a statutory appeal filed under Section 34 of the 1996 Act and therefore, on the same cause of action her

writ petition would not be maintainable. It is in these circumstances, that the appellant has filed the instant intra court appeal.

2 Learned counsel for the appellant contends that the issue with regard to treating the appellant's land as 'gair mumkin factory' was duly taken up by the appellant before the Arbitrator but the Arbitrator chose to illegally ignore the same. Resultantly, the Arbitrator through his award dated 05.12.2022 granted compensation to the appellant, which was much lower than what the appellant was rightfully entitled to. It was further submitted that the arbitrator noticed the fact that the appellant's land abutted the main road and that the same also fell within the municipal limits but inspite of the same, awarded compensation only @ Rs.35 lakhs per acre which was even lower than the rates fixed by the Competent Authority for Land Acquisition-cum-District Revenue Officer, Jind and that persons who were similarly situated have been awarded compensation @ Rupees One Crore per acre.

3 Learned counsel for the appellant has been heard and with his able assistance we have also gone through the record of the case.

4 The claim raised by the appellant for grant of higher compensation, was referred to an Arbitrator. Thereafter, the Arbitrator gave his award dated 05.12.2022. The appellant was not satisfied by the compensation granted to her through the aforesaid Arbitrator's award. Therefore, she challenged the same through filing of an appeal under Section 34 of the 1996 Act. Such appeal is still pending. During the pendency of her afore referred appeal, her writ petition, through which she sought issuance of directions to make corrections in the

LPA No.1828 of 2023

Arbitrator’s award dated 05.12.2022 has rightly not been entertained by the learned Single Judge.

5 In the light of the above, we find no reason to interfere with the impugned judgment. Accordingly, the present appeal is dismissed with costs of Rs.10,000/- to be deposited with Punjab and Haryana High Court Lawyers Welfare Fund.

(DEEPAK SIBAL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

22.11.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No