

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision: 17th March, 2023

(1) FAO No.7332 of 2018 (O&M)

Rakesh Kumar and another

Appellants

Versus

Union of India and others

Respondents

(2) FAO No. 9244 of 2018 (O&M)

Sudesh Kumar Mahindru (since deceased) through LRs

Appellants

Versus

Union of India and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Paramjit Rajput, Advocate for the appellants.
Mr. D. K. Singhal, Advocate for the respondents.

AVNEESH JHINGAN, J (Oral):

Vide this common order the above mentioned appeals shall be disposed of. For the sake of convenience, the facts are being taken from FAO-7332 of 2018.

This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is filed aggrieved of order dated 1.10.2012 allowing the objections filed by Union of India(UOI)/National Highway Authority of India (NHAI) and remanding the matter back. The appeal is accompanied by an application for condonation of delay of 2138 days in filing the appeal.

Brief facts are that land of the applicant/appellant situated in village Daulatpur, District Pathankot was acquired for widening of National Highway No.-1A (Jalandhar to Pathankot). The compensation was determined by the competent authority. The issue with regard to the compensation to be awarded was referred to the arbitration which culminated in award dated 12.3.2011.

The UOI/NHAI aggrieved of the award filed objections under Section 34 of the Act which were allowed on 1.10.2012 and the matter was remanded back to the arbitrator to decided afresh expeditiously. Aggrieved of decision the land owner is before this Court. The appeal is accompanied by an application for condonation of delay of 2138 days.

Learned counsel for the applicant/appellant submits that valuation of the land of the similarly situated land regarding the same acquisition pertaining to same village has attained finality as per decision of this Court in FAO No. 9678 of 2014, the Special Leave Petition against which was dismissed.

Learned counsel for UOI on instructions is not disputing the factual aspect as contended by learned counsel for the appellant and submits that issue of value of land is no longer in dispute. He submits that issue with regard to compensation awarded under other heads is contested.

Considering the facts of the case and also that the major issue regarding the valuation of the land is not in dispute, in spite of vehement opposition of the learned counsel for UOI for the reasons mentioned in the application the delay is condoned. It would not be out place to mention that the delay cannot be solely attributed to applicant. In spite of direction to

pass award afresh expeditiously, the proceedings have not even started till date. The applicant waited for outcome of remand proceedings and only then filed the present appeal.

With the consent of both the parties, the appeals are taken up or merit today itself.

At this stage, learned counsel for the appellant in view of the statement made by counsel for UOI with regard to the valuation of the land restricts his prayer that the arbitrator be directed to dispose of the proceedings in a time bound manner.

It is not disputed by the parties that arbitrator has been appointed. There is no doubt considering that the acquisition is of the year 2004, the arbitrator with the co-operation of the parties shall make an earnest effort to dispose of the arbitration proceedings in terms of the time frame stipulated under Section 29-A of the Act. The parties shall be at liberty to make a request before the Arbitrator for expeditious disposal.

Needless to say that parties shall be at liberty to raise all legal issues at appropriate stage.

Appeals are accordingly disposed of.

Since the main cases have been decided, the pending application(s), if any is rendered infructuous.

Photocopy of this order be placed on the file of the connected case(s).

[AVNEESH JHINGAN]

JUDGE

17th March, 2023

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1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No