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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(124)

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Date of decision:- 09.09.2024

**National Authority of India, Project Implementation Unit, Bathinda
through its Project Director, Rajeev Kumar**

... Petitioner

Versus

Mulak Raj and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vinay Gaur, Advocate
for the petitioner.

SUVIR SEHGAL, J. (ORAL)

1. Instant revision petition has been filed under Article 227 of the Constitution of India *inter alia* for setting aside impugned order dated 14.12.2023, Annexure P-4, passed by learned Additional District Judge, Patiala, whereby an application filed by the petitioner under Section 36 (2) of the Arbitration and Conciliation Act, 1996 (for short 'the Arbitration Act') has been accepted and a conditional order has been passed.

2. Facts are not in dispute. By virtue of notification published on 25.05.2012 under Section 3-A of the National Highways Act, 1956, land falling within the revenue estate of Village Harigarh, Tehsil and District Barnala was acquired for the purpose of widening of National Highway No.64. The competent authority announced its award dated 20.01.2014



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granting compensation for the acquired land. Aggrieved with the award, land owners filed a reference and the Commissioner, Patiala Division, vide award dated 04.05.2020, Annexure P-1, enhanced the compensation. Petitioners filed an objection petition, Annexure P-2, under Section 34 along with an application under Section 36(2) of the Arbitration Act, Annexure P-3 for stay of the operation of the award. After contest by the land owners, the application has been accepted by learned Additional District Judge, Patiala by the impugned order in the following terms:-

“11. However, applying the yardsticks of the above referred authorities and in view of arguments of learned counsel for UOI and NHAI and in the interest of justice, the present application filed under Section 36 (2) of the Arbitration and Conciliation Act is allowed and operation of the award dated 28.05.2019 (sic 04.05.2020) is stayed till the disposal of the objection petition under Section 34 of the Act. However, same is subject to the deposit of entire enhanced awarded amount alongwith requisite interest, within two months, in terms of the award dated 28.05.2019 (sic 04.05.2020) of learned Arbitrator, before the CALA and 50% of amount shall be released to the land owners subject to their furnishing indemnity bonds of double of the amount with one surety of the like amount, as per award dated 28.05.2019 (sic 04.05.2020) and balance of the 50% amount be kept in the shape of FDR and not to be released till final disposal of the petition under Section 34 of the Act. The application is accordingly allowed in the afore stated terms.”

3. Counsel for the petitioner has argued that the Court has erred in



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passing a conditional order and as there was a substantial enhancement in the compensation vide Award Annexure P-1, in as much as solatium has been increased from 30% to 100%. He asserts that the deposit of the entire enhanced amount deserves to be stayed.

4. Issue notice of motion to contesting respondent No.1.

5. Mr. Ranjit Saini, Advocate has put in appearance and accepts notice on behalf of respondent No.1. He has filed Memorandum of Appearance, which is taken on record.

6. Counsel for the respondent No.1 submits that the impugned order has been passed keeping in view the observations made by the Supreme Court in *Project Director National Highways Authority of India Vs. Saraswatibai Chandrakant Shinde and others, 2022 SCC Online SC 1115*. He has referred to subsequent order dated 17.07.2024 passed by the learned Additional District Judge, Patiala to assert that 50% of the amount has been released to the landowner and the remaining amount has been deposited in the shape of FDRs.

7. I have considered the submissions of counsel for the parties.

8. There is no substance in the argument raised by counsel for the petitioner. A perusal of the above reproduced operative part of the impugned order shows that the learned Additional District Judge, Patiala, had directed the petitioner to deposit 50% of the enhanced amount with the Executing Court and this amount has been ordered to be released to the land owners on furnishing indemnity bond for double the amount with one surety or in the alternative on furnishing of a bank guarantee equivalent to



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the amount to be released, subject to the satisfaction of the Executing Court. This Court is of the view that the interest of the petitioner stands safeguarded with the imposition of the above condition and 50% amount stands released to respondent No.1. Insofar as the balance amount is concerned, learned Additional District Judge, Patiala, has directed its deposit in the shape of FDRs and its disbursal has been stayed till the determination of the objection petition, Annexure P-2, which is pending. The deposit and release of the amount awarded by learned Additional District Judge, is in conformity with the observations of the Supreme Court in Saraswatibai Chandrakant Shinde's case (supra). There is no illegality or infirmity in the order passed by the learned Additional District Judge and the same is affirmed.

9. Petition is devoid of any merit and is hereby dismissed with no order as to costs.

(SUVIR SEHGAL)
JUDGE

09.09.2024

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No