

In the Court of Charanjeet Arora,
Additional District Judge, Jalandhar.
(UID No.PB0178)

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CNR No.PBJL010097312019.  
CIS No.ARB/224/2019.  
Date of institution: 14.03.2019.  
Decided on: 12.02.2024.

- 1) Union of India, Ministry of Road Transport and Highways, through the Project Director NHAI-PIU-Jalandhar (Punjab);  
2) The Project Director, National Highway Authority of India, PIU, 778-Kalia Colony, Jalandhar (Pb).....(**Petitioners**)

Versus

- 1) Gurbachan Lal son of Munshi Ram;  
2) Gurnam Lal son of Munshi Ram;  
Both residents of Village Chak Alla Baksh, Tehsil Mukerian, District Hoshiarpur;  
3) The Commissioner, Jalandhar Division-cum-Arbitrator, Jalandhar.  
4) **The Competent Authority-cum-Sub Divisional Magistrate, Mukerian, District Hoshiarpur (Pb).....(Respondents)**

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| <p><b>Petition under Section 34 of the Arbitration and Conciliation Act, 1996 as amended vide the Arbitration and Conciliation (Amendment) Ordinance Act, 2015 for setting aside the Arbitration Award dated 25.9.2018 (in MA No.258 of 2018) made by the Arbitrator-cum-Commissioner, Jalandhar Division, Jalandhar.</b></p> |
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**Present:** Shri Abhilaksh Gaind, Advocate for the petitioners.  
Respondents No.1 & 2 exparte.

**ORDER**

Under disposal by means of this order is an objection petition filed by the petitioners under Section 34 of the Arbitration and Conciliation Act, 1996 whereby they have assailed the arbitral Award dated **25.9.2018** passed by the Commissioner, Jalandhar Division-cum-Arbitrator, Jalandhar in case **MA No.258 of 2018** and by means of their petition, the petitioners have made a prayer for setting aside of the Arbitral Award dated **25.9.2018**.

2. The factual matrix as can be culled out of the objection petition of the petitioners, is that the petitioners acquired agricultural and no-agricultural land of various villages falling in the area of Tehsil **Mukerian**, District Hoshiarpur qua which the amount of compensation was assessed by the Competent Authority-cum-Land Acquisition Collector and was paid to the affected land owners.

3. Thereafter, the land owners- respondents No.1 & 2 preferred a Civil Writ Petition before the Hon’ble High Court praying for the relief qua grant of solatium and interest on the amount of compensation on the basis of law laid down by the Hon’ble High Court in the case of **M/s.Golden Iron and Forgings Versus Union of india and others**’ reported as **2011(4) Recent Civil Reports Page 375**. The Writ petition so preferred was disposed of by the Hon’ble High Court with the directions to the Competent Authority-cum-Land Acquisition Collector to determine the claim of the land owners with regard to grant of Solatium and interest in accordance with the law in the case of Golden Iron (supra).

4. Accordingly, in consonance with the directions so issued by Hon’ble High Court, the Competent authority-cum-Land Acquisition Collector had initially passed an order on **23.12.2014** which happened to be challenged by the present petitioners in **MA No.1/2015** before the Arbitrator who set aside the said order dated **23.12.2014** vide orders dated **20.12.2017** and the Competent authority was directed to decide the matter afresh keeping in view the direction so issued by the Court.

5. The competent authority-cum-Land Acquisition Collector thereafter passed the supplementary Award dated **27.3.2018** which was again challenged by the petitioners before the arbitrator but this time the application of the petitioners filed before the Arbitrator has been dismissed vide orders dated **25.9.2018**. It is now the said award of the arbitrator passed on **25.9.2018** which has been assailed by the petitioners in the present petition under Section 34 of the Arbitration and Conciliation Act, 1996 with the submissions that in an appeal preferred before the Hon’ble Supreme Court in the case of **‘Sunita Mehra and another Versus Union of India and others**’ being Civil appeal No.10553 of 2011 alongwith Civil

appeal No.8874-8883 of 2013 decided on 11.8.2016, has held that the Award of solatium and interest on solatium should be made effective only to the proceedings pending on the date of the Judgment passed in the case of Golden Iron (supra) i.e. 28.3.2008 and not the cases which stood concluded prior to the said Judgment. It is thus contended that the land owners-respondents No.1 & 2 was not entitled to the benefit of solatium and interest but the competent authority wrongly awarded the said benefits to the respondent and the learned arbitrator has also wrongly upheld the said Award of the competent authority. Accordingly, a prayer for setting aside the arbitration Award dated **25.9.2018** has been made by the petitioners.

6. After issuing notice to the respondents No.1 & 2 and procuring presence, the records from the office of the Arbitrator were requisitioned and I have heard the learned counsels for the parties and have perused the records of the case as well.

7. As already noted above, it was on the basis of writ petition preferred by the land owners that the aspect as to the benefit of Solatium and interest was directed to be decided by the competent authority cum land acquisition collector in the light of law laid down by the Hon’ble High Court in the case of Golden Iron (supra). Accordingly, taking into consideration the law so laid down by the Hon’ble High Court whereby Section 3J of the National Highways Act, 1956 was struck down by the Hon’ble High Court as arbitrary, irrational and violative of Article 14 of the Constitution as far they deny payment of solatium and interest and that in respect of all the acquisitions made under the National Highways Act, 1956 solatium and interest will have to be granted in terms of Section 23(2) and Sec.28 of the Land Acquisition Act, 1894, the competent authority cum land acquisition collector has awarded the said benefits of Solatium and interest to the respondents No.1 & 2 as permissible under Section 23(2) and 28 of the Land Acquisition Act, 1894. The contention raised by the learned counsel for the petitioners that the benefits flowing from the Judgment in the case of Golden Iron were to be extended only to pending cases and not to concluded cases in view of the observations made by Hon’ble Supreme Court in the case of Sunita Mehra (supra) is also found to be mis-conceived

and untenable in view of the fact that Hon’ble Supreme Court of India in the case of ‘Union of India Versus Tarsem Singh and others’ decided on 19.9.2019 has clarified that the benefits of solatium and interest shall be payable in respect of all the acquisitions under the National Highways Act, 1956 as a result of which it no more lies in the mouth of the petitioners that the said benefits were to be extended only in respect of pending cases and not the decided cases. Thus, no illegality can be said to have been committed by allowing the benefits of Solatium and interest to the land owners- respondents No.1 & 2 and accordingly the Award of the arbitrator upholding the said benefit and also holding that grant of interest on initial amount of compensation shall be subject to outcome and decision in the pending LPA No.2342 of 2017 titled as ‘NHAI Versus Surjit Singh Saini and others’ cannot be said to be suffering from any illegality or infirmity so as to warrant any interference by this Court.

8. Thus, considering all the above discussed facts and circumstances as also the legal position as it exists at present, the Award under challenge in the considered view of this Court does not warrant any interference and the objection petition filed by the petitioners thus deserves to be dismissed.

9. Accordingly, the objection petition filed by the petitioners is hereby dismissed by upholding the Award of the arbitrator under challenge in this petition. Memo of costs be prepared and the case file be consigned to Record Room.

Pronounced: (Charanjeet Arora) UID No.PB0178  
12.02.2024. Additional District Judge, Jalandhar.

**Memo of costs**

| <b><u>Nature of cost.</u></b>  | <b><u>Petitioner</u></b> | <b><u>Respondent</u></b> |
|--------------------------------|--------------------------|--------------------------|
| Court fee stamp on petition    | Rs.300-00                | Rs.00-00                 |
| Court fee on Power of Attorney | Rs. 10-00                | Rs.00-00                 |
| Process fee                    | Rs. 50-00                | Rs.00-00                 |
| Subsistence for witnesses      | Rs. 00-00                | Rs.00-00                 |
| Misc.expenses                  | Rs. 00-00                | Rs.00-00                 |
| <b>Total:</b>                  | <b>Rs.360-00</b>         | <b>Rs.00-00</b>          |

Given under my hand and seal of the Court, this 12<sup>th</sup> day of February, 2024.

(Charanjeet Arora) UID No.PB0178  
Additional District Judge, Jalandhar.