

Parminder Kaur Vs. Union of India etc.  
IA No. 02 of 2024 in  
ARB No. 53 of 2021  
PBFZ010036922021

Present: Sh. Nitin Mehta Advocate, counsel for petitioner.  
Sh. Varinder Garg Advocate, counsel for respondents  
No.1 and 4.  
Sh. Kuldeep Sahni, Govt. Pleader for respondent No.3.  
Sh. Harish Kumar Aggarwal Advocate, counsel for  
applicant/respondent No. 2.  
Respondent No. 5 exparte.

\*\*\*\*\*

**ORDER:**

1. This order of mine shall dispose of an application moved by applicant/respondent No. 2 i.e. National Highway Authority of India through its counsel for striking out its name from the array of parties as respondent No. 2.

2. It has been contended by the applicant that National Highways Authority of India is an Authority constituted by an Act of Parliament i.e. the National Highways Authority Act 1956. The NHAI is Governed and controlled by the Ministry of Road Transport and Highways. The present objection petition is against the arbitration award passed by Sole Arbitrator-cum-Commissioner, Ferozepur Division, Ferozepur. Said Award was pertaining to the acquisition of the land acquired for the four laning of National Highway No. 71 in District Moga. The land was acquired for widening of National

Highway No. 71 on the stretch of land from Km. 44.600 to Km, 114.250 in District Moga and Union of India has entrusted this work of National Highway to the Executive Engineer, Central Public Works Department, B&R Jalandhar. Further Union of India has entrusted the National Highway No. 71 on the stretch of land from Km. 44.600 to Km. 77.200 for Shahkot-Moga section in District Moga to the National Highways Authority of India vide its Notification No. 380(E) dated 24.01.2019 and accordingly the Executive Engineer, Central Public Works Department, PWD B&R, Jalandhar, has transferred all the cases to National Highways Authority of India (NHAI) on the stretch of land from Km. 44.600 to Km. 77.200 and the stretch of land from Km. 77.201 to Km. 114.250 in District Moga is still in the jurisdiction preview of Executive Engineer, Central Public Works Department, B&R Jalandhar. The present reference is qua the National Highway No. 71 on the stretch of land from Km. 77.201 to Km. 114.250 falling in District Moga and such stretch is not within the jurisdiction/preview of the applicant, as such the applicant cannot be arrayed as party in the present petition. Hence, prayer has been made for allowing the application.

3. Upon notice of the application, petitioner has filed written reply taking preliminary objections that NHAI was party before the

Arbitration proceedings they were being represented before the Arbitrator through counsel. The award was announced in their presence. The applicant has never filled any application before Arbitrator-Cum-Commissioner Ferozepur for striking out or deletion as party before arbitration proceedings. Moreover NHAI has not challenge the award passed by the Arbitrator, so said award has become final qua NHAI. The land owner has already impleaded NHAI as a party in the present petition under section 34 of Arbitration Act. The NHAI has already been ordered to be impleaded as necessary party in the objection petition filed by Union of India by the court of learned District Judge, Ferozepur vide order dated 30.11.2022. It is further contended that the order passed by the learned District Judge Ferozepur vide order dated 30.11.2022 to implead NHAI as a necessary party was never challenged by NHAI before Hon'ble High Court and it has already attained finality. Counsel for NHAI has also admitted the fact vide gazette notification dated 24.01.2019 Union of India has entrusted the entire project of NH-71 to National Highway Authority of India. This is departmental work between the Union of India, PWD (B&R) Central Works Department and between the NHAI. If there is any agreement between the two departments or authorities then that is their own issue. Why due to any acts of the department the

objector/petitioner should suffer. The relevant portion of the notification is as under:

*“S.O. 380 (E).-In exercise of the powers conferred by section 11 of the National Highways Authority of India Act, 1988 (68 of 1988), the Central Government hereby entrusts the stretch of national highways, as specified in column (3) of the Table below, of the section as specified in column (2) of the National Highway as specified in the corresponding entry in column (1) of the said Table, to the National Highways Authority of India, namely:*

| National Highway No. | Section of National Highway                           | Stretch in Kilometers    |
|----------------------|-------------------------------------------------------|--------------------------|
| (1)                  | (2)                                                   | (3)                      |
| H-71                 | Lambra-Shahkot Section<br>(in the State of Punjab)    | Km. 12.00 to Km. 44.600  |
| H-71                 | Shahkot-Moga Section<br>(in the State of Punjab)      | Km. 44.600 to Km. 77.200 |
| H-71                 | Moga-Tallewala Section<br>(in the State of Punjab)    | Km. 77.200 to Km. 114.00 |
| H-71                 | Tallewala-Barnala Section<br>(in the State of Punjab) | Km. 114.00 to Km. 149.00 |

With these submissions, he prayed for dismissal of the application.

4. Respondents No. 1 and 4, who are being represented by Sh. Varinder Garg Advocate, have given no objection in allowing

the present application, whereas learned Government Pleader representing the respondent No. 3 has stated that application be decided as par law.

5. Arguments have been heard.

6. Perusal of the file shows that in this case, the Government of India, Ministry of Road Transport and Highways vide its letter No. RW/NH-24011/06/2016-NHDP-IVA dated 20.09.2016 has appointed Divisional Commissioner, Ferozepur as Arbitrator in this case and the land was acquired by Ministry of Road Transport and Highways through NHAI and Sub Divisional Engineer, Central Works, PWD (B&R) Jalandhar. Said land was acquired and award was passed by Competent Authority, Collector-cum-Sub Divisional Magistrate, Moga, which was challenged by way of arbitration proceedings and at the time of arbitration proceedings, the parties have arrayed applicant/ NHAI as party to the proceedings. At that time, all the respondents i.e. Union of India, NHAI, Competent Authority, Collector-cum-Sub Divisional Magistrate, Moga and Sub Divisional Engineer, Central Works, PWD (B&R) Jalandhar were arrayed as party and they were represented by one counsel through out the proceedings. The arbitration award was passed and thereafter, the petition under section 34 of Arbitration and Conciliation Act was filed by Union of India as

well as private party, which are pending before this court. During the proceedings, even vide order dated 23.08.2022, order was passed by learned predecessor of this court, vide which application under section 36(2) of Arbitration and Conciliation Act was allowed and directions were issued to deposit 100% amount. Said order was challenged in CR No. 5614 of 2022 and vide order dated 01.12.2022, Hon'ble High Court was pleased to uphold the order passed on 23.08.2022. Moreover, since the applicant/NHAI is a party to the proceedings from the very beginning and at no stage of arbitration proceedings, they have claimed that they have nothing to do with the proceedings of this stretch of kilometer and now they have come up with the case that this stretch of kilometer does not belong to them and they sought striking of their name from the array of respondents. But as per gazette notification dated 24.01.2019, Union of India has entrusted the entire project of NH-71 to National Highway Authority of India. The relevant portion of the notification is reproduced hereunder:-

| National Highway No. | Section of National Highway                        | Stretch in Kilometers    |
|----------------------|----------------------------------------------------|--------------------------|
| (1)                  | (2)                                                | (3)                      |
| H-71                 | Lambra-Shahkot Section<br>(in the State of Punjab) | Km. 12.00 to Km. 44.600  |
| H-71                 | Shahkot-Moga Section<br>(in the State of Punjab)   | Km. 44.600 to Km. 77.200 |

|      |                                                       |                          |
|------|-------------------------------------------------------|--------------------------|
| H-71 | Moga-Tallewala Section<br>(in the State of Punjab)    | Km. 77.200 to Km. 114.00 |
| H-71 | Tallewala-Barnala Section<br>(in the State of Punjab) | Km. 114.00 to Km. 149.00 |

7. So, since the interest of applicant/NHAI is involved in this case, as such, this court is of the considered view that they are necessary party to the proceedings. Accordingly, the application in hand is hereby dismissed. Now to come up on 24.09.2024 for filing reply to the main petition by the applicant/NHAI.

**Announced in open court.**

**Dt: 06.08.2024.**

Pritpal Singh

Stenographer Gr. II

**Sd/-  
(Hardip Singh)  
Additional District Judge  
Ferozepur.  
(UID No. PB0638)**