

Chander Pal & Others Vs National Highway Authority Of India & Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Jan. 14, 2019

Acts Referred: Arbitration & Conciliation Act, 1996 &" Section 34
National Highways Act, 1956 &" Section 3G(5)

Hon'ble Judges: G.S.Sandhawalia, J

Bench: Single Bench

Advocate: Vivek Gupta

Final Decision: Disposed Off

Judgement

Sl.No.,Village,"Rate awarded per

acre

1.,Shahjahanpur,"Rs.65,63,000/-

2.,Sahupura Khadar,"Rs.65,63,000/-

3.,Arua,"Rs.65,63,000/-

4.,Atali,"Rs.65,63,000/-

5.,Maujpur,"Rs.65,63,000/-

6.,Mothuka,"Rs.65,63,000/-

7.,Fajjupur Khadar,"Rs.65,63,000/-

8.,Chhainsa,"Rs.68,63,000/-

9.,Mohna,"Rs.65,63,000/-

Once a procedure has been prescribed under the statute, the same has to be followed and merely because the petitioners have approached this Court,",,

the discretionary relief under Article 226 of the Constitution of India, needless to say, is not liable to be invoked. Counsel for the respondents is well",,,

justified in holding out that for necessary relief, applications under Section 34 have to be filed within a fixed time-frame, as per the provisions of the",,,

Act. If the land-owners have chosen not to file such petitions, they cannot overcome the issue of limitation only on account of the fact that they have",,,

approached the Writ Court, to get over this legal impediment.",,

Thus, in view of the alternative remedy as such available, it is always open to the petitioner to seek recourse to his alternative remedy for the statutory",,,

benefits which are due as it is settled principle that recourse to the writ court cannot be made if there is efficacious and alternative remedy available.,,,

The Apex Court in United Bank of India Vs. Satyawati Tondon and others, 2010 (8) SCC 110 has noticed the principles of alternative remedy. It was",,,

observed that it was a self imposed restraint and the alternative remedy was a rule of discretion and not one of compulsion. The relevant observations,,

read as under:-,,

“44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to",,,

issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the",,,

enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that,,

power but, at the same time, we cannot be oblivious of the rules of self imposed restraint evolved by this Court, which every High Court is bound to",,,

keep in view while exercising power under Article 226 of the Constitution. 45. It is true that the rule of exhaustion of alternative remedy is a rule of,,

discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of",,,

the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision",,,

etc. and the particular legislation contains a detailed mechanism for redressal of his grievance. Further, the argument raised that the District Judge",,,

would not have jurisdiction, as such, in the absence of the right of solatium under the Act, is also without any basis. Once the Division Bench has held",,,

that the land-owners, as such, are entitled for the benefits and has declared the law, as such, the argument raised that the District Judge would not",,,

have jurisdiction, is without any basis.",,,

Accordingly, the writ petitions are disposed of, as not maintainable. Needless to say that it is open to the petitioners to avail their alternative remedies",,,

in accordance with law, as observed above.”,,

Faced with this situation, counsel is not in a position to press the present writ petitions and prays for liberty to avail his alternative remedy, in",,,

accordance with law.,,,

Ordered accordingly.,,,