

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

**CWP No.11239 of 2015
Date of decision: 28.5.2015**

Rajbir and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Sudhir Aggarwal Advocate for Mr. Rajinder Paul, Advocate
for the petitioners.

Ajay Kumar Mittal, J.

1. The petitioners seek quashing of notifications dated 10.10.2013 and 21.7.2014 issued under sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the 1894 Act") read with clause (a) of sub section (1) of Section 24 of the Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, "the 2013 Act") acquiring the water courses and passages in the revenue estate of Village Jatheri, District Sonapat. Further direction has been sought to the respondents not to construct the boundary line of Sector 38 in the eastern side of Killa line of Khasra Nos.5//12, 19, 22, 10//2, 9, 12, 19 and 22 in the revenue estate of Village Jatheri. Direction has also been sought to provide passage to their holdings for ingress and outgress so that they may cultivate and utilize the same.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioners are owners in possession of the land comprised in Khasra Nos.5//19, 21, 22, 9//5/1, 10//1,2, 9/1, 12/2, 19/1, 19//1/2, 10, 11, 12, 19, 20 situated in the revenue estate of Village Jatheri, Tehsil and District Sonapat as per Jamabandi for the year 2006-07. They have ingress and outgress to the said land through the passages carved out during the consolidation proceedings i.e. passage Nos.132, 183, 184, 192, 186, 188 and 189. Vide notification dated 10.10.2013 Annexure P.3, respondent No.1 proposed to acquire land in Village Jatheri Hadbast No.66 for a public purpose namely for the development of Sector 38 forming part of Sonapat Kundli Multi functional Urban Complex. The land of water courses and passages was also proposed to be acquired. Notification under section 6 of the 1894 Act read with clause (a) of sub section (1) of section 24 of the 2013 Act was issued on 21.7.2014, Annexure P.4. When the award was yet to be announced, respondents 3 and 4 brought the construction material at the spot to construct a metaled road on the western side of Khasra Nos. as mentioned above blocking the ingress and outgress of the petitioners to their remaining land. The petitioners approached respondent No.4 by submitting written application on 5.12.2014, Annexure P.5. Having received no response, they filed the instant writ petition.

3. We have heard learned counsel for the petitioners.

4. Learned counsel for the petitioners submitted that land of the petitioners would be left without any access and in such a situation, acquisition of land is bad. Prayer for directing the respondents to provide passage for ingress and outgress has been made so that the petitioners may

cultivate and utilize their land. Reliance was placed on judgment of this Court in *Raj Kumar vs. State of Punjab*, 1983 PLJ 175 in support of the submissions.

5. After hearing learned counsel for the petitioners, we do not find any merit in the writ petition.

6. So far as the acquisition of land is concerned, no material averment was made by the learned counsel for the petitioners to assail the same. However, in so far as providing of passage for ingress and egress is concerned, the same involves question of fact as to how the petitioners had been approaching their land prior to acquisition and how the acquisition has resulted in blocking the said passage. In such circumstances, the writ petition would not be the appropriate remedy and it shall be open for the petitioners to seek remedies for passage to their land through civil court or any other forum in accordance with law. The judgment in *Raj Kumar's* case (supra) being based on individual fact situation involved therein does not come to the rescue of the petitioners. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 28, 2015
'gs'

(Rekha Mittal)
Judge