

CWP No. 7593 of 2001
Date of decision : 23.03.2017

..... **Petitioner**

..... Respondents

Mr.Rajesh K.Sheoran, Advocate for respondent No.4.

“ Mr. Sehgal, in the very beginning, states that he is not staking any claim in so far as khasra No. 206 is concerned, which is passage. He presses, thus, the present petition

pertaining to khasra Nos. 303 and 309 only. The revenue record attached to the petition would reveal that the petitioner is indeed owner of khasra nos. 303 and 309. It is positive case of the petitioner that the respondents have raised construction over these khasra numbers without acquiring the land. The factual position, as such, with regard to construction on the aforesaid khasra numbers has been disputed. In the interest of justice, we feel it necessary to appoint a local commissioner to find actual position as to whether there is or not any construction on khasra Nos. 303 and 309, mentioned in the writ petition.

We appoint Tehsildar, Revenue, Ambala to give the report as to whether there is construction in khasra Nos. 303 and 309 or not. To identify the land, a copy of the petition be sent to the Tehsildar along with Annexure P-1 jamabandi for the year 1994-95. The local commissioner will give his report after giving notice to the parties.

Adjourned sine die. Be listed again only when the report of local commissioner is received. Liberty to apply.

Copy of the order be given dasti to learned counsel representing the parties on payment of usual charges.”

In view of the aforementioned fact the counsel for the petitioner submits that since the petitioner has not staked his claim for khasra no. 206 as per the report of the local commissioner there is no passage of land for khasra number 206 and that the water course had been wrongly constructed in khasra no. 309 and 303. The contention of the petitioner is that once his land has been taken away without any acquisition and water course has been constructed, he is rendered remediless. It is a classic case where the high-handedness of the State is reflected. I restrict myself from passing adverse remarks as it is a settled law that no person can be deprived of his land in

view of Article 300A of the Constitution of India. The legislature has already repealed the Land Acquisition Act and has come out with a new Act i.e. Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in which it is mentioned that if compensation has not been paid to a person whose land has been acquired he may have some protection in law.

Be that as it may, I dispose of this writ petition with a direction to respondents to pay compensation to the petitioner as per the applicability of the new Act, in respect of 10 marlas out of khasra no. 309 according to the petitioner which has been taken away for the purpose of laying boundary of the water course. Let this exercise be done within a period of six months. Liberty is granted to the petitioner to move an application in case no efforts are being made and he is not being informed of any action having been taken in pursuance of this order. Keeping in view the peculiar facts and circumstances of the case it shall not be treated as a precedent.

Petition stands disposed of.

**(AMIT RAWAL)
JUDGE**

March 23, 2017
sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No