

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

**CWP No.12219 of 2013 (O&M)
Date of decision:19.01.2017**

Suresh Kumar and others

... Petitioners

Vs.

Commissioner, Municipal Corporation, Gurgaon and
others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R.S.Malik, Advocate
for the petitioners.

Mr. Sandeep Singh Mann, Sr. DAG, Haryana.

Mr. Mohnish Sharma, Advocate
for respondent No.1.

Mr. Madhu Ranjan, Advocate, for
Mr. Rakesh Dhiman, Advocate
for respondents No.5 to 15.

AMIT RAWAL J. (Oral)

The petitioners are aggrieved of the impugned order dated 05.01.2011 (Annexure P-5), whereby, their land has been declared to be used for the purpose of common passage and lying of drainage/sewer lines etc.

The contention of the petitioners is that without following the procedure under the Right of Fair and Compensation Act, 2013 or the Municipal Corporation Act 1994, the order cannot be implemented.

Mr. Mohnish Sharma, learned counsel appearing on behalf of respondent No.1 submits that no acquisition proceeding before passing of

the order has been taken place and the possession is still with the petitioners being owners.

No person can be deprived of the land without paying any compensation which is violation of the provisions of Article 300-A of the Constitution of India. The authority should have indulged into passing of such order, in case, the authority is actually in need of the area for the purpose of common passage and lying of drainage/sewer lines etc. The notice dated 08.04.2010, Annexure P-4 shall not be implemented but shall be kept in abeyance till the procedure for acquisition of the land, if necessity arises, is followed.

With the aforementioned observations, grievance of the petitioners and respondents No.5 to 15 is redressed.

Writ petition stands disposed of.

(AMIT RAWAL)
JUDGE

January 19, 2017
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No