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

CWP-13772-2016

Date of decision : 01.03.2017

Chuni Lal and others

... Petitioner(s)

Versus

Union of India and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sudhanshu Makkar, Advocate
for the petitioners.

Mr. Pawan Kumar Longia, Advocate
for respondent Nos.1 to 3.

AMIT RAWAL, J. (ORAL)

The grievance of the petitioner in the present writ petition is for issuance of appropriate writ in the nature of mandamus directing the respondent Nos.1 to 3 to restore the public/revenue passage No.219, 221, 335/1 and 336, which was provided for going to the agricultural fields of the petitioners and as well as the other villagers at the time of consolidation in the year 1962, now rendered use-less as they had been blocked due to elevation of railway track on conversion of meter gauge to broad gauge and laying additional tracks by the Railway Administration at passage No.221 and provide for railway crossing/over-bridge/under pass or any other appropriate measure with sufficient ascent and descent on either side of track.

Mr. Sudhanshu Makkar, learned counsel for the petitioners has drawn the attention of this Court to the provisions of Section 19 (1) under Chapter IV of the Railways Act, 1989, pertaining to 'Over-bridges and Under-bridges' which read as under :

"Where a railway administration has constructed lines of rails across a public road at the same level, the State Government or the local authority maintaining the road, may, at any time, in the interest of public safety, require the railway administration to take the road either under or over the railway by means of a bridge or arch with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as may, in the circumstances of the case, appear to the State Government or the local authority maintaining the road to be best adapted for removing or diminishing the danger arising from the level crossing."

Mr. Pawan Kumar Longia, learned counsel appearing on behalf of respondent Nos.1 to 3 submits that the aforementioned provisions only envisage the State Government or the Local Authority and not the petitioners and therefore, the application (Annexure P-4), submitted to the General Manager, Railway Department, Jaipur, could not have been entertained.

Learned counsel for the petitioners has further drawn the attention of this Court to the Legal Notice dated 28.07.2015 (Annexure P-5) under Section 80 of the Code of Civil Procedure, wherein an identical prayer has been made to the Deputy Collector, Bhiwani.

Keeping in view the aforementioned facts and circumstances, I deem it appropriate to dispose of the present writ petition by issuing a

direction to the Deputy Collector, Bhiwani to move an appropriate application either by himself or through the local authority, to the General Manager, Railway Department, Jaipur, as indicated in the application (Annexure P-4), in view of the provisions of Section 19 (1) *ibid* as expeditiously as possible for vindication of the grievances of the petitioners.

Let this exercise be done within a period of one month from the date of the certified copy of this order and on receipt of the representation/application, respondent Nos.1 to 3/Railway Authorities shall further take action within a period of three months by affording an opportunity of hearing to the petitioners or the villagers with regard to the provisions, as indicated in the representation/application (Annexure P-4) and Legal Notice (Annexure P-5).

Disposed of with the aforementioned directions.

01.03.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned ☒ Yes/ ☐ No

Whether Reportable ☒ Yes/ ☐ No