

CWP No.19776 of 2016 (O&M)

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

CWP No.19776 of 2016(O&M)
Date of decision: 25.10.2017

Dr. Raj Kumar Sharma and others

...Petitioners

Vs.

National Highways Authority of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. J.S.Toor, Advocate, for the petitioners.
Mr. D.K.Singhal, Advocate for respondent No.1.
Mr. Alok Kumar Jain, Sr. Panel Counsel for respondent
No. 2.
Mr. IPS Doabia, Addl.A.G.Punjab.

Ajay Kumar Mittal,J.

1. Prayer in this petition filed under Article 226 of the Constitution of India is for a direction to the respondents not to block the passage of Phase 1, Villages situated on Phase 1 side and adjoining residential areas while constructing the portion of National Highway 64 Rajpura-Patiala Road at light point crossing adjoining Phase I. Further prayer has been made for a direction to provide an over bridge just on a small portion by constructing only two pillars so as to let the present passage continue which provides access to the inhabitants of phase 1 and houses built in 11.6 acres scheme area, three villages, four developed colonies to the city of Patiala and to the Punjabi University from the light point and crossing on the Rajpura Patiala road touching the bypass to be

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constructed and to demolish the so called rain water drain being constructed on a platform 2 feet higher than the earth and the road level.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Petitioners No.1 to 23 are residents of Phase 1, Urban Estate, Patiala and petitioner No.24 is an association of the residents duly registered as a society under the Societies Registration Act, 1860. The Chief Engineer, Central Works, Department of B&R Punjab, Chandigarh is executing National Highway No.64, Zirakpur-Bathinda National Highway project in Punjab. The original plan was demarcated and a route was conceived in 1977. The first notification of acquisition of land was issued on 3.5.1981. The route plan was finalized in 2011. The Ministry of Road Transport and Highways issued another notification dated 3.5.2013 for acquiring the land. The Urban Estates in Patiala were created by different schemes developing a particular area for example 25.5 acres and then 11.6 acres, besides other similar schemes to develop the urban area. The route plan had been designed in such a way that traffic from Bathinda to Zirakpur on this stretch shall be carried out on elevated road whereas the traffic from Zirakpur to Bathinda side shall be routed on earth filled road. Another notification dated 12.2.2016 published on 19.2.2016 had been issued for acquiring land in colonies viz. 25.5 acres and 11.6 acres schemes in urban estate Phase 1 Patiala for the same purpose. With this notification, some area under unallotted plots in 25.5 acres scheme had been spared presumably because of pressure and pulls on the authorities executing the project. As a result, the revised plan for widening of the bypass had been pushed towards the 11.6 acres scheme where there were residential houses already built and the parks developed which were being affected. Number of writ petitions i.e. CWP No.3202 of

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2015 and other connected petitions were filed challenging the award dated 31.12.2013 on the ground that instead of assessing the market value independently, the Land Acquisition Collector determined the market value only on the basis of report of the District Price Fixation Committee and secondly the solatium. The said writ petitions were allowed vide order dated 14.7.2016 and the award had been set aside. The project authorities are not inclined to construct a portion of the earth filled lane on pillars so as to give access to 11.6 acres block, Phase 1 to the main Rajpura Patiala road and to the light point corner. Number of representations were made to the authorities but in vain. Hence the instant petition by the petitioners.

3. We have heard learned counsel for the parties.

4. The main grievance of the petitioners is that the bypass consists of two lanes Bathinda-Zirakpur and Zirakpur-Bathinda. One lane is being constructed on pillars and the other by filling earth. In case, it is so constructed, the passage to 11.6 acres block, Urban Estate, Phase 1 and road to three villages Deelwal, Noorkherian, Their (Sahib Nagar) and four colonies namely Mehta Colony, Royal Enclave, Panchwati, Apolo Sr. Sec. School would be blocked forever and access to city of Patiala and to the Punjabi University shall be closed forever from the light point connecting 11.6 acres block, Phases I and II on Rajpura-Patiala road. Further, a rain water drain is being constructed not only by digging the earth but on a raised platform 2 feet higher than the normal level of the surrounding land and the adjoining road level.

5. In the reply by way of affidavit of Executive Engineer, Central Works Division, PWD B&R, Sangrur at Patiala on behalf of respondents Nos. 3, 5 and 6, it has been specifically clarified that the rain water drain as claimed by the petitioners to be a blockage to their access to

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the road, has already been altered in construction as a ground level water channel. In other words, the water drainage has been lowered to the earth level. Consequently, part of relief as claimed in the petition has already been granted to the petitioners. With regard to the claim qua providing a over bridge on a small portion by constructing only two pillars to let the present passage continue, it has been stated in the written statement that the passage from light pint crossing as claimed had not been blocked, rather access to the passage had been given by providing a vehicular underpass on the National High Way No.64 approximately 600 meters from the light point towards Rajpura side. However, in case any grievance survives, the petitioners may approach the appropriate forum for its redressal in accordance with law. Moreover, this matter does not fall within the parameters of the Maintainability of Public Interest Litigation Rules, 2010. Accordingly, this court in writ jurisdiction under Article 226 of the Constitution of India does not find any ground for interference. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

October 25, 2017
‘gs’
Whether speaking/reasoned
Whether reportable

(Amit Rawal)
Judge
Yes
Yes