

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.6370 of 2016.

Date of Decision: February 13, 2017

M/s Puri Constructions Pvt. Ltd.Petitioner

versus

The State of Haryana and othersRespondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.Sumeet Goel, Advocate, for the petitioner.
Mr.Vijesh Sharma, DAG, Haryana.
Mr.Amar Vivek, Advocate, for respondent No.3.
Mr.Deepak Balyan, Advocate, for respondent No.4.

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Surya Kant, J. (Oral)

The petitioner is a construction Company. It has filed the instant writ petition seeking a mandamus to direct the State of Haryana, Haryana Urban Development Authority and Municipal Corporation, Gurgaon, for the widening of Bajghera Road at Gurgaon to 60 meters V2 road. The petitioner's case is that in the final Development Plans of 2021 AD, 2025 AD and 2031 AD for the “Gurgaon-Manesar Urban Complex”, the above-stated road has been categorized as V2 with the width of 60 meters. The second prayer is to direct the Municipal Corporation, Gurgaon, to remove unauthorized constructions and structures abutting the existing Bajghera road.

[2] As regard to the plea for widening of above-stated road to 60 meters, Municipal Corporation, Gurgaon has in its reply dated 20.07.2016 stated that the matter regarding widening of road does not fall within its purview and such an exercise is to be undertaken by HUDA.

[3] Similarly, State of Haryana in its reply has shifted the burden on HUDA and/or Municipal Corporation, Gurgaon.

[4] The Estate Officer-I, HUDA, Gurgaon too has filed reply dated 19.12.2016 giving yet another twist to the controversy, as according to him, the road is owned by PWD (B&R) Department, Haryana and therefore, action will have to be taken by the said Department only. However, it is further explained that 6.8 acres land was proposed to be acquired by the State Government vide notification dated 27.12.2013 for the widening of road but the acquisition has been stayed by this Court in CWP No.2744 of 2014.

[5] Petitioner has averred in the writ petition that atleast 50 acres land is required to be acquired for widening of the road in question, whereas the State Government has made efforts to acquire only 6.8 acres land.

[6] In this factual backdrop, the question which falls for consideration of this Court is whether a writ of mandamus can be issued to the State Government to acquire the land for widening of the above-stated road?

[7] Having heard learned counsel for the parties, we are of the considered view that such a direction cannot be issued by this Court, for the acquisition of land is not a free of costs exercise. It puts the State exchequer under heavy burden besides infringing the rights of the affected land-owners. Further, projection of the above-stated road with '60 meters width' in the final Development Plan does not mean that the State Government is under any statutory obligation to widen the road in a time bound manner.

[8] The allocation of funds for different projects is a matter of State policy and it has to be left to the policy makers only. There are several

priorities like supply of drinking water in rural areas, sanitation, electrification, education, primary health facilities etc. etc. which are needed in the most populated areas. Can the State be directed to divert its entire funds for urbanization at the cost of needs of rural people? The answer is in negative. In this view of the matter, we are satisfied that no direction for widening of the road in a time bound manner, merely because it has been projected as a 60 meters in the final Development Plan, can be issued.

[9] However, the petitioner is right in contending that if unauthorized encroachments have been made on the existing road, the authorities including the Municipal Corporation are duty bound to remove such encroachments. The Municipal Corporation in its affidavit dated 04.11.2016 has acknowledged the encroachments and appropriate action is said to have been taken by issuing notices to the encroachers. Learned counsel for the petitioner points-out that no further action has been taken thereafter.

[10] The instant writ petition is thus disposed of with a direction to the Municipal Corporation, Gurgaon, to remove the encroachments in accordance with law in a time bound manner and needful be done within a period of four months from the date of receiving a certified copy of this order.

[9] Ordered accordingly.

[10] Dasti

[SURYA KANT]
JUDGE

February 13, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned
Whether Reportable

: Yes/No
: Yes/No