

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

**LPA No. 1811 of 2016 (O & M)
Date of decision : 3.5.2017**

Hawa Singh

.....Appellant

v.

Chief Canal Officer/LAU, Panchkula and another

.....Respondents

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER
 HON'BLE MR. JUSTICE DR. SHEKHER DHAWAN**

Present : Mr. Kulvir Narwal, Advocate, for the appellant

Mr. Naresh Kaushik, Advocate, for respondent No. 2

Mahesh Grover, J. (Oral)

CM No. 3713 of 2016:

For the reasons stated in the application, the same is allowed.

Delay of 14 days in filing the accompanying appeal is condoned.

LPA No. 1811 of 2016 (O & M) :

This appeal is directed against the judgment of learned Single Judge dated 26.7.2016 passed in CWP No. 12200 of 2015 and the particular grievance is directed against the following observation :

“Consequently, the respondent authorities are directed to provide the water course to respondent No.2 on the basis of exchange of land between petitioner and respondent No.2, instead of forcing the petitioner to accept compensation in cash. This direction is being issued to the respondent authorities with a view to strike a balance and to do a complete and substantial justice between the parties.”

Learned counsel for the appellant contends that there is no

provision in the Haryana Canal and Drainage Act, 1974 (for short “the Act”), under which an exchange is permitted, to carry out the works regarding providing access to irrigation, through a water course and the only course available to the authorities is, to acquire the land for which a particular procedure has to be followed, requiring publication of the scheme and consideration of objections.

Learned counsel for the respondents contends that only a minuscule portion of appellants' land is likely to be effected, for which, he is willing to compensate him by surrendering equal portion of his land, which adjoins the land of the appellant, thereby, ensuring no prejudice or loss is caused to him, either in terms of land or money.

We have heard learned counsel for the parties. Section 21 of the Act is extracted here below :

“21 (1) The Divisional Canal Officer may, either of his own motion or on the application of a shareholder, publish in the manner prescribed a notice of his intention to acquire any land required for implementation of the scheme.

(2) Any person interested in the land notified under sub-section (1) may, within twenty-one days from the publication thereof, apply to the Divisional Canal Officer by petition stating his objections to the proposed acquisition of his rights.

(3) After considering the objections, the Divisional Canal Officer may proceed to take the occupation of the land so required on behalf of the shareholders.

(4) Compensation, to be fixed by the Divisional Canal Officer on the principles set out under Section 23 of the Land Acquisition Act, 1894, shall be payable by the shareholders in proportion to the culturable commanded area under the scheme held by each one of them to the owner or occupier of any land for such acquisition and on failure of payment, the amount shall be recoverable as arrears of land revenue.”

A perusal of the above, indicates that for the purposes of providing a water course, to ensure better irrigation, the competent authority would have the power to acquire land, if necessary, by publishing a scheme, with the requisite notice to all affected and after considering the objections, that may come on record against exchange scheme, the competent authority would, if necessary, acquire such portion of land in lieu of compensation awarded.

The objection of the appellant to the observation of the learned Single Judge is beyond comprehension. He does not question the necessity of acquisition but merely objects to the exchange. Assuming the aforesaid observations were to be set aside then also, the authority is vested with the powers to acquire the land in lieu of compensation and if the learned Single Judge, in order to settle the dispute has directed that an exchange is a better option to cut short the delay and to enable a faster and expeditious solution to the problem, inter se between the parties, then what prejudice would be caused to the appellant. Site plan shows they are the only affected parties and if equal land is being given in exchange of a similar nature, there can be no cause for the appellant to agitate particularly when the land being given in exchange is adjacent to his land.

In any, eventuality, looking at the provision of law and the powers bestowed on the competent authority, we would, to be correct to the letter of law accept the plea of the appellant, to direct the authority concerned to forthwith acquire the land of the appellant, in order to complete the works.

We, thus, direct the authority concerned to commence with the process without any delay and conclude the same. Since the scheme has

already been published, thus, there is no necessity for any further objection by the appellant and his objections in the shape of the present proceedings be considered in the light of what has been observed in this order. The authorities would conclude the process of acquisition forthwith, within a period of one month, as it may not be necessary to go through the whole process of publishing the scheme again. This would be expedient for more than one reason that we have expressed i.e. the objection is only from the appellant and no other person is effected except the parties before us and no prejudice is manifesting.

After the acquisition, the competent authority would seize the possession from the appellant, of the land required for the works and, in case of any objection from the appellant, we direct that immediate police help be provided, so that the works are not obstructed.

In view of the above, the present appeal stands dismissed.

(MAHESH GROVER)
JUDGE

(SHEKHER DHAWAN)
JUDGE

3.5.2017
Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No