

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

CWP No.29522 of 2018

Date of Decision : 22.11.2018

Tarvinder Jit Kaur and another

....Petitioners

Versus

Union of India and others

....Respondents

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE LALIT BATRA**

Present: Mr.A.K.Chopra, Sr. Advocate with
Ms.Rupa Pathania, Advocate
for the petitioners.

MAHESH GROVER, J. (Oral)

This petition has been filed with the following prayer :-

- “i) issuance of a writ, order or direction in the nature of mandamus to suitably correct/amend the current partly constructed alignment of Northern Peripheral Road as per the alignment of the Sectoral Plan/alignment of the land acquired for Northern Peripheral Road under Final Development Plans of Gurugram-Manesar Urban Complex-2021, Annexure P/7 or in consonance with the submissions made by Respondent No.3 in the Written Statement filed in CWP No.12545 of 2009; Jhanda Singh and others vs. State of Haryana and others, Annexure R-3 of Annexure P/9; and
- ii) issuance of a writ, order or direction in the nature of mandamus directing the respondents to release land admeasuring about 0.50 acre falling in Rectangle 49, Kila 25, Annexure P/8, that has been sought to be acquired for NPR but does not fall in the alignment of the NPR as per Final Development Plan-2021 and the Sectoral Plans under Final

Development Plan 2021; and

- iii) Issuance of a writ in the nature of mandamus directing the Respondents to release the land of the petitioners that has been acquired based on the alignment of Northern Peripheral Road (NPR) as provided either in Drawing No.DTP(G) 1520/2006, dated 14.11.2006 or in Drawing No.DTP(G) 1475/06 dated 11.07.2006, Annexure P/13, Annexure P/7 which is illegal, fraudulent and mala-fide as established from perusal of Written Statement, Annexure P/9 in conjunction with comments submitted by National Capital Region Planning Board dated 09.08.2006 Annexure P/16, information received under the Right to Information Act dated 18.01.2017, Annexure P/25, information received under the Right to Information Act, 2005 dated 03.04.2007, Annexure P/17 and information received under the Right to Information Act, 2005 dated 23.05.2017, Annexure P/33 and also in contravention of the express mandate of National Capital Region Planning Act, 1985; or in the alternative, award to the petitioners, for both the land acquisitions initiated vide notifications issued under Section 4 of Land Acquisition Act, 1894 dated 25.01.2008 and 13.01.2010 respectively, compensation and rehabilitation and resettlement benefits as specified in the First Schedule and the Second Schedule, at the current rate, in accordance with the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 by applying the provisions of urgency clause of Section 40 therein; and
- iv) issuance of a writ, order or direction in the nature of

mandamus directing the respondents to amend the Final Development Plan of Gurugram-Manesar Urban Complex 2021 (FDP-2021), Annexure P/7, Final Development Plan of Gurugram-Manesar Urban Complex-2025, Final Development Plan of Gurugram-Manesar Urban Complex 2031, and Sectoral Plans made thereunder;

- a) with regard to the width of NPR, Green Belt on both sides of NPR, provided for the widening of the Road, and 12/24 meter Service/Sector Roads along Green Belt, since the Road has now been notified as a National Highway (NH) and, as per the Detailed Project Report prepared by National Highway Authority of India, total width of NPR is going to be only 90 meters that provides for Green Belt and service roads, consequently return excess land of the Petitioners which had purportedly been acquired for the purpose of 150 meter wide NPR (Annexure P/1 & Annexure P/2), as the same will lead to Ribbon Development/ unauthorized development, and save the Respondent State's exchequer roughly Rs.2,400 crores; and
- b) for the removal of the 30 meters of Green Belts planned along both sides of the 150 meters wide NPR and 12/24 meter service/sector roads planned along Green Belts, as, the main carriageway of the expressway is going to be elevated with 4 lanes on each side, 3 lane service roads are being constructed on the ground on both sides, along with the provisioning of two Green Belts of 10.5 meters and

4.95 meters on each side of NPR within 90 meters, and 8 meter service roads in between the two Green Belts, on each side, as no land can be acquired under the provisions of Section 8 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for the existing provision of the Green Belt on both sides of NPR and 12/24 meter service/sector roads planned along Green Belts, in Development Plans beyond 150 meters already acquired as there will be no legitimate and bona fide public purpose for the proposed acquisition; and

- v) issuance of a writ, order or direction in the nature of Certiorari quashing Drawing No.DTP(G) 1475/06 dated 22.06.2006 of Draft Development Plan of Gurugram-Manesar Urban Complex 2021, Annexure P/13 and Drawing No.DTP(G) 1520/2006 dated 14.11.2006, attached to the Final Development Plan of Gurugram-Manesar Urban Complex 2021, Annexure P/7 to the extent the alignment of NPR as provided in the said drawings is erroneous illegal and arbitrary and further occasioned due to fraud, malice on the part of the Respondent State, as the said alignments are different from the alignment submitted (Annexure P/9) by the Respondent State before this Hon'ble Court in CWP 12545 of 2009, Jhanda Singh and others vs. State of Haryana and others, which is the actual alignment of the Road decided in consultation with Delhi Development Authority (DDA), National Capital Region Planning Board (NCRPB) and Delhi Government and the map received from NCRPB on

- 23.05.2017 through an RTI application, Annexure P/33; and
- vi) Issuance of a writ, order or direction in the nature of mandamus ordering an Comptroller and Auditor General, audit into the loss suffered by the respondent State because of the ill planning of NPR and the Sector Roads provided in FDP-2021; and
 - vii) issuance of a writ, order or direction in the nature of mandamus directing Town and Country Planning Organization, Ministry of Housing and Urban Affairs, Government of India, to carry out an audit of the planning of the Roads done in FDP-2021; and
 - viii) issuance of a writ, order or direction in the nature of mandamus directing the respondent State to remove NPR Right of Way (ROW) pillars erected in the un-acquired land of the petitioners as the alignment of the ROW pillars has encroached into 8 acres stretch of petitioners un-acquired land with a total encroachment of 2412 sq.yards; and
 - ix) issuyance of a writ, order or direction in the nature of mandamus directing the Respondent State to remove the pipeline laid in the un-acquired land of the petitioners; and
 - x) issuance of writ, order or direction in the nature of prohibition, prohibiting State of Haryana/Ministry of Road Transport and Highways (MORTH) NHAI from proceeding to acquire land purportedly either for Green Belt on sides of NPR or for NPR or Sector roads planned under FDP-2021 or Sectoral Plans or for any other purpose without first surveying and correcting the partly constructed alignment on the ground of NPR, and without first amending the Development Plans for the change in the width of NPR; and

- xi) issuance of ad interim directions to restrain the Respondents and their contractors to proceed further with respect to the laying down of the NPR.Dwarka Expressway as per Package 3, Delhi Haryana Border to Rail over Bridge (RoB), Chainage Km 9.500 to Km 19.700, on Haryana side, of the DPR prepared for Dwarka Expressway/NPR till the center of the alignment of the NPR in the DPR, in the stretch, Chainage Km 9.500 to Km 19.700, is corrected as per the land acquired for NPR; and
- xii) issuance of ad interim directions to restrain the State of Haryana/HSVP (HUDA)/Gurugram Metropolitan Development Authority (FMDA) from handing over the possession of 90 meter width of the land acquired for NPR to MORTH/NHAI/ their contractors, in the stretch in Package 3 of DPR prepared for NPR/Dwarka Expressway, Delhi Haryana Border to Rail over Bridge (RoB), Chainage Km 9.500 to Km 19.700, without first carrying out a ground survey, and correcting center of the alignment of the NPR as per the land acquired for NPR, and ensuring that it is the central 90 meters of the land acquired for NPR that is handed over to NHAI, as agreed to between the NH|AI and the Respondent State, thereby, leaving 30 meters on each side out of the total 150 meters acquired as otherwise the balance 60 meter land will be rendered useless; and/or
- xiii) issuance of any other writ, order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.”

We are of the opinion that the petitioners cannot dictate the alignment of the peripheral road or any other road as it is the job

of the experts to decide so. We thus have no hesitation in declining this prayer.

Learned counsel for the petitioners then contends that due to the alignment of the road some portion of un-acquired land has been broached upon. If that is so, then we direct the petitioners to make a representation to the respondents in this regard within a period of four weeks and if done, the said authority will look into the grievance set out by the petitioners.

We make it clear that the Court has specifically declined the prayer to seek realignment of the peripheral road.

Dismissed.

(MAHESH GROVER)

JUDGE

22.11.2018

dss

(LALIT BATRA)

JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No