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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.3650 of 2019

Date of Decision: 31.05.2019

Daya Ram

..... Petitioner

Versus

Sub Divisional Engineer and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Suman Jain, Advocate,
for the petitioner.

Mr. Pawan Kumar Jhanda, A.A.G., Haryana,
for the respondents/State.

SUDIP AHLUWALIA, J. (ORAL)

It is submitted on behalf of the respondents/State that two days after filing the present petition, the petitioner had sworn an Affidavit, in which he undertook to vacate the disputed land after demolishing his building erected thereupon.

2. Such submission is extraneous to the subject matter under consideration before this Court.

3. The impugned order was passed by the Ld. Trial Court in view of the application under Order 7 Rule 11 of the CPC, in which it had been contended that the Suit for permanent injunction was not maintainable in

the Ld. Civil Court on account of the statutory bar under Section 13 of the Haryana Road Infrastructure Protection Act, 2017. It is note worthy that the entire Plaint did not refer the Provision under which the impugned notice (Annexure P-1) was issued, even though the caption on top of the notice shows in capital letters that it was under Provisions of the said Act.

4. In the given situation, this Court is in agreement with the decision of the Ld. Court below that the Suit as framed would not have been maintainable in the Ld. Civil Court, on account of which the Plaint was liable to be returned.

5. The present revisional petition is, therefore, dismissed. However, the petitioner is granted an opportunity to file his Representation along with his supporting documents before the respondents/Competent Authority within a fortnight from the date, after which the respondents shall pass a speaking order thereupon, as expeditiously as possible.

31.05.2019*Apurva***(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No