

RSA-257-2020 (O&M)

Date of decision: 16.01.2020

State of Haryana and othersAppellants

versus

Dharambir and othersRespondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Siddharth Sanwaria, DAG, Haryana
for the appellants-State.**FATEH DEEP SINGH, J.**

Heard.

Admittedly, the petitioners are owners and were in possession of land denoted by rectangle No.82, Killa No.03/1, 01 Kanal and Khasra No.82, Killa No.8/2 and Killa No.9 measuring 02 Kanals and 01 marla.

It is by sheer demonstration of official power, force the appellant-State Public Works Department (Buildings and Roads) forcibly and illegally carved out a *pucca* road over this property owned by the plaintiff. It is well writ on the records that it was in utter disregard of the rules and the law without demarcating the properties, on which the road was being built and without acquiring it under the law or paying compensation. The two Courts below have consistently held, so that, it was clearly a case of misuse of the powers by the authorities, for which, even no decision has

come about. Not only the unfortunate plaintiffs were forced to knock at the doors, repeatedly, first, before the Court of the learned Civil Judge (Junior Division), Assandh, who decreed their suit and, thereafter, by the Court of the learned District Judge, Karnal, who holding the findings as to the ownership and possession of the property, in question, chose it appropriate to award compensation which was to be paid within six months from the date of passing of the impugned judgment on 09.10.2019 and a rider was imposed that, in case, the authorities fail to pay the compensation even one year from the day of passing of the impugned judgment, the plaintiff shall be entitled to possession of the land by execution of the impugned judgment.

In brief, the plaintiffs had filed a suit for possession against the defendant-Department for getting back their land measuring 2 Kanal 1 Marla denoted by rectangle No.82, Killa No.03/1, Khasra No.82, Killa No.8/2 and Killa No.9, over which, the road in question was laid by the defendant-Department throwing off to the winds all canons of justice and in utter disregard to the Preamble and provisions of the Constitution.

It is fairly conceded at the bar by the Government Pleader for the State that neither compensation, so directed, has been paid and that more than three months has lapsed. This total insolence shown by the appellants, who rather than, abiding by the

concurrent findings by the two Courts below and when there is nothing substantial pointed out or is discernible which could be a point to be raised in this appeal have sought to ensure that the plaintiffs are made to have another round at this litigation.

It has come across to this Court repeatedly that the State, which has attained notoriety of giving birth to frivolous litigation which is mere futile. None of the concerned officers have shown any compassion, sensitivity to the claim of the litigants and rather have chosen a convenient way of assailing the judgment and thus, unnecessarily burdening even the Courts and the exchequer with unwanted litigation. The Government Pleader for the State could not bring forth anything material and substantial, legal or factual and, therefore, the present appeal stands dismissed in limine with special costs of Rs.5 lakh, which shall be borne, 50% by the State and the officers responsible of appellant Department from their personal salaries and 50% by the law officers, who had given the legal advice for filing this appeal, which shall go equally to the plaintiffs, now respondents.

Copy of this be sent to the Department of Home/Personnel for due compliance.

(FATEH DEEP SINGH)
JUDGE

16.01.2020

Neha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No