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

CWP No. 9721 of 2020

Date of Decision: 17th July, 2020

Sunita Gupta

Petitioner

V/S

Union of India and others

Respondents

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN**

Present: Mr. Munish Puri, Advocate for the Petitioner.

Ms. Puneet Kaur Sekhon, Sr. Panel Counsel for UOI.

Mr. R.S. Madan, Advocate
for the National Highway Authority of India.

Dr. S. Muralidhar, J.

1. This is a writ petition praying, *inter alia*, for quashing of the Notice No. NHAI/PD/HA/JAL/2020/NH-1A/13/70, dated 29th June, 2020 issued by the Respondent No. 3.

2. The Petitioner does not dispute that the land on which her son is running a shop, the construction of which is around 1294 sq. ft., stands acquired for the purpose of widening/four-laning the National Highway (NH) 1-A under the relevant provisions of the National Highways Act, 1956 ('NH Act'). The award in that regard was passed way back on 22nd June, 2009.

3. The case set up by the Petitioner is that possession is yet to be taken of the land in question. The categorical averment in para-4 of the petition

reads as under:-

“ . . . It is pertinent to mention that vide present writ petition petitioner is not having any intention to hinder the work of widening Road as proposed nor is seeking any direction neither is challenging the aforementioned Notification bearing no. S.O. 1458 (E.) dated 05/10/2005 issued under section 3A(1) of National Highways Act, 1956.”

4. The Petitioner has filed this petition challenging a notice dated 29th June, 2020 issued to her by the National Highway Authority of India ('NHAI') requiring her to remove the shop which is an encroachment. The notice pointed out that she had violated the Control of National Highway (Land & Traffic) Act, 2002 ('NHLT Act'). Claiming that no notice was earlier issued to her by the NHAI for taking possession, the Petitioner averred in para-12 as under:-

“12. That petitioner is ready to abide all the conditions imposed by this Hon'ble Court and ready to surrender or vacate her shop/ area to facilitate further widening the Road which is acquired vide notification. It is pertinent to mention that by passing impugned notice only against the petitioner alone is showing clearly misuse of power and malafide intention of respondents.”

5. When this petition was heard first on 13th July, 2020, the following order was passed by this Court:

- “1. Notice of motion.
2. Notice be served dasti upon Mr. Raghubir Madaan, learned counsel appearing for National Highway Authority of India.
3. Learned counsel for NHAI will seek instructions on whether the impugned notice dated 29th June, 2020 issued to the petitioner is proposed to be acted upon in the immediate future.

4. Notice to additional respondent No. 4 be served through dasti.
5. List on 17th July, 2020.
6. Status quo be maintained till the next date of hearing.”

6. The NHAI has since filed a reply stating *inter alia* that the Petitioner's shop is in the Right of Way ('ROW') of the project highway; that the project of widening was completed way back in 2012; that the Petitioner is in illegal possession of validly acquired land and in violation of Section 26 (2) of the NHLT Act.

7. Having perused the reply of NHAI and photographs appended thereto, the Court directs that the Petitioner, as undertaken by her in the writ petition itself that she is willing to demolish the shop as and when required by the NHAI, should do so on or before 24th July, 2020, failing which it will be open to the NHAI, with the assistance of Police, to take possession of and demolish the unauthorized shop of the Petitioner stated to be run by her son.

8. The writ petition is disposed of in the above terms.

[S. MURALIDHAR]
JUDGE

[AVNEESH JHINGAN]
JUDGE

July 17, 2020

<i>pankaj baweja</i>	1. Whether speaking/ reasoned	:	Yes / No
	2. Whether reportable	:	Yes / No