

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2105-2020 (O&M)
Date of Decision: 13.10.2020

Mahender Singh and another

....Petitioners

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Mukesh Yadav, Advocate, for the petitioners.

HARNARESH SINGH GILL, J. (ORAL).

Challenge in the present petition is to the orders passed by the Courts below, whereby an application filed by the petitioners under Order 39 Rules 1 and 2 CPC has been dismissed.

The petitioners had filed a suit for permanent injunction restraining the defendants from constructing the walls for Toll Plaza on the land comprised in Khewat No. 116 Min/109, Khatauni No. 145 min, Khasra No. 7//7/2 (2-17), 13(3-13) Kitas 2, measuring 6 kanals 10 marlas, situated within the revenue estate of village Ahmadwas.

Along with the said suit, the petitioners had also filed an application under Order 39 Rules 1 and 2 CPC for grant of temporary injunction.

The trial Court dismissed said application vide order dated 08.06.2020 holding that Aks-shajra produced by the petitioner-plaintiffs revealed that it was not a rasta as alleged by

them and as such the petitioners were not entitled to any injunction. It was further observed that if the ingress and egress of the property was affected by the construction of the wall by the defendants, the petitioner-plaintiffs had a remedy to approach the revenue authorities for carving out the rasta. It was further observed that the Toll Plaza, being part and parcel of the development work of constructing the National Highway, the bar contained in Section 41(ha) of the Specific Relief Act, would come in way.

The petitioner-plaintiffs unsuccessfully filed an appeal against the said order.

Learned counsel for the petitioners contends that both the Courts below have erred in dismissing the injunction application filed by the petitioners. Both the Courts below did not appreciate the fact that there being no ingress and egress to the land of the petitioners, the very purpose of the use of the said land would stand defeated.

After hearing learned counsel for the petitioners, I do not find any merit in the present petition.

Indisputably, Loharu-Charkhi Dadri Highway stands declared as National Highway under the National Highway Authorities of India Act, 1988. The Toll Plaza being constructed by the Highway Authorities is on the said National Highway land and not on the land of the petitioners. Therefore, both the Courts below are perfectly justified in holding that the relief claimed by the petitioners cannot be granted in view of the bar contained in Section 41(ha) of the Specific Relief Act, 1963.

The petitioners are alleging no ingress and egress to their land. If such a position, it is open to them to approach the revenue authorities of the area concerned for redressal of their grievance. The land acquisition process for constructing the National Highway and/or a toll plaza thereon, cannot be interfered with at the instance of the petitioners, when admittedly, there is neither any attempt on their part to approach the revenue authorities for redressal of their grievance nor there is anything to indicate that after construction of the Toll Plaza on the National Highway, the land of the petitioners would be left with no ingress and egress.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

13.10.2020
ds

(HARNARESH SINGH GILL)
JUDGE

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