

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 9017 of 2019 (O&M)

Date of Decision: 27.10.2021

Shrikant Dahiya and Others

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sandeep Sharma, Advocate
for the petitioner(s).

Mr. Rohit Arya, Deputy Advocate General,
Haryana, for the respondent No.1 and 2.

Mr. Arvind Seth, Advocate
for the respondent No.3 to 5.

Anil Kshetarpal, J.

1. A written statement on behalf of respondent No.3 to 5 has been filed in the Court with a copy, in advance, to the learned counsel representing the petitioners. The same is taken on record.

2. On 04.10.2021, the following order was passed by this Court:-

“The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Through this writ petition, the petitioners pray for issuance of a writ in the nature of mandamus to pay them compensation, after completing the process of acquisition of the unacquired land, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act, 2013. On 22.10.2019, learned counsel representing respondent No.3 to 5 entered appearance. However, neither any reply to the petition has been filed nor the counsel has completed the instructions. He prays for another opportunity while submitting that a fresh inspection has been carried out and the concerned authority is likely to take a decision within a short time.

The writ petition is pending in the Court for the last 2 years and 5 months. However, respondent No.3 to 5 appears to be taking the matter very casually.

Keeping in view the aforesaid facts, one last opportunity is granted to complete the pleadings before the next date of hearing i.e.27.10.2021, failing which the Chief Administrator, Haryana Shehri Vikas Pradhikaran, shall be required to attend the hearing on the next date”.

3. In the written statement, it is not disputed that the land measuring 3 kanals, owned by the petitioners, has neither been acquired nor purchased by the Haryana Shahari Vikas Pradhikaran (hereinafter referred to as “the HSVP”). It has been stated that the HSVP has inadvertently utilized 3 kanals of land belonging to the petitioners for constructing a road. It has further been stated that the HSVP is prepared to purchase the land referred to above as per the purchase policy dated 08.03.2019.

4. The learned counsel representing the petitioners contends that the immovable property owned by a citizen cannot be taken away without following the due process of acquisition in accordance with law. He submits

that the petitioners have no objection if the acquisition process is initiated in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “the 2013 Act”) and is completed within a period of one year.

5. Mr. Arvind Seth, the learned counsel representing the HSVP submits that their organization is prepared to pay the amount as per the purchase policy. He draws the attention of the Court to Annexure R1, a communication from the Chief Town Planner to the Administrator, HSVP, Gurugram, assessing the amount payable.

6. The question is “whether the HSVP or the Courts can force the petitioners to accept the offered amount without any further right to get the market value determined from a judicial authority?” As per the provisions of the 2013 Act, the owner, who stands deprived of his land on account of compulsory acquisition, has a right to apply for assessment from the Court.

7. On the one hand, the petitioners stand deprived of their land without payment of a single penny, whereas on the other hand, a road has already been laid on the said land which is being used by the public at large.

8. Keeping in view the aforesaid facts, the writ petition is disposed of in the following manner:-

- a) The HSVP, as an interim measure, is directed to pay an interim compensation to the petitioners at the current collector’s rate for the land utilized i.e. 3 kanals within a period of one month from today. If the amount is not paid within a period of one month, the petitioners shall be at liberty to take over the possession of the land.

- b) The HSVP or the State of Haryana is directed to initiate the acquisition proceedings in accordance with the 2013 Act within a period of one month from today and complete the same within a period of one year thereafter. The amount so determined by the competent authority under the 2013 Act shall be paid to the petitioners in accordance with the provisions of the 2013 Act.
- c) The petitioners shall have the liberty to apply for assessment of the market value/compensation in accordance with the provisions of the 2013 Act.

9. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

October 27, 2021

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No