

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

**CWP No. 13460 of 2021 (O&M)**

**Date of decision: 25.08.2021**

**Pawan Kumar and others**

**...Petitioners**

**Versus**

**National Highway Authority of India and others**

**...Respondents**

**CORAM : HON'BLE MS. JUSTICE RITU BAHRI  
HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Roopak Bansal, Advocate, for the petitioners.

Mr. Chetan Mittal, Senior Advocate assisted by  
Mr. R. S. Madaan, Advocate, for respondent no. 1.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

**(Presence marked through video conferencing).**

**Arun Monga, J.**

Instant writ petition is second foray before this Court, on the same cause of action, seeking to quash land acquisition notification dated 27.07.2008 issued under Section 3-A of the National Highway Act, 1956. Ground, inter alia, is that the intended construction of Trans Haryana North South Expressway from Gangheri to Narnaul, while passing through two villages namely, Kaul and Chandlana in District Kaithal would result in demolition/destruction of a Shiv Mandir and ancient pond along with *Smadh* of Sidhpursh falling in the area of aforesaid villages.

2. Earlier round of proceedings vide CWP No. 37194 of 2019 –

*Swami Satyanand vs National Highway Authority of India and others* was

at the instance of one Swami Satyanand, in his capacity as Manager,

seeking protection of the same very property. The said first petition was disposed of on 17.02.2021 in the following terms:-

*“With the consent of learned counsel for the parties, the main case is pre-poned and taken up for hearing.*

*This petition has been filed by the petitioner praying for a direction to respondent No. 1, namely, National Highways Authority of India to construct the national highway in such a manner so as to protect the Tirath Shiv Mandir and ancient pond alongwith samadh of Sidhpurush situated at village Kaul-Chandlana, Sub Tehsil Dhand, District Kaithal.*

*Learned senior counsel appearing for the respondent No.1 – NHAI submits that pursuant to the observations made by this Court, the authorities had re-examined the matter and after sitting with the concerned Sarpaches have now decided to deviate the highway by extending the length of the bridge by 50 meters. He submits that they have made a categorical statement before this Court on an affidavit as well as during arguments that they shall ensure to protect the temple, the pond and the ancient structures standing thereon.*

*In view of the aforesaid statement made by learned senior counsel appearing for the respondent No.1 – NHAI, which is also supported by the stand taken by them in their written statement and CM-1370-CWP-2021, we are of the considered opinion that nothing further survives for adjudication in the petition which is accordingly disposed of.” (emphasis supplied)*

3. Petition in hand has now been instituted by a new set of persons being residents in or around the vicinity where proposed highway is to come up. Their grievance is that notwithstanding the specific undertaking given to this Court, the respondents are taking no steps to comply with it, necessitating the second round of litigation. The petitioners have appended a site map (Annexure P/20) which, per their assertion, depicts that the proposed highway would still pass through the pond. Requisite steps for deviation of the stretch of about 50 meters length of the road by

extending the length of flyover/bridge so as to make it pass over the property to avoid its destruction are not being taken.

4. In course of arguments, on 10.08.2021, the allegations of any damage to the property in question were strenuously opposed by learned counsel for the State, as well as by counsel appearing for NHAI-Respondent no.1. Following order was then passed:-

*“Learned counsel for respondent No.1 states that petitioners have not approached this Court, it was Swami Satyanand, who filed CWP No. 37194 of 2019. The petitioners are the local residents of the village and they have no cause of action either to file contempt petition or writ petition. In case the allegation of the petitioners is found to be false, heavy cost should be imposed upon them. His prayer is accepted.*

*Learned counsel for respondent No.1 will clarify his stand on Annexure P-20 (map) and will place on record the counter map to show the position of NHAI with respect to acquisition.*

*List on 25.08.2021.”*

5. In the aforesaid premise, the petitioners are thus fully conscious that, in case, their allegations turn out to be false, they will be visited with costs.

6. A short reply dated 16.08.2021 has been filed by K. M. Sharma, Project Director, NHAI, Project Implementation Unit, Bhiwani. It is pleaded that petitioners have deliberately misled this court by withholding/ concealing the revised site plan and/or filed the petition without proper verification of the purported site plan P/20 annexed with the petition. This petition, therefore, deserves to be out rightly dismissed, is the contention.

7. A perusal of revised site plan (Annexure R-1/4 with reply), shows that the temple area in its entirety is being protected from any untoward damage by extending the length of fly-over. In fact, part of the fly over which has been relocated to save the entire property in question.

Respondents have also placed on record photographs (Annexure R-1/5), which clearly reflect that the fly-over is not obstructing the location of the temple at all.

8. Having heard arguments and upon perusal of the revised site plan R-1/4 and glancing through photographs R-1/5, the writ petition is dismissed. By way of imposition of costs, the petitioners are directed to plant trees of deciduous and perennial nature, on both sides of the proposed expressway, at a running stretch of one kilometer each towards right and one kilometer towards left side of the highway (a total of 4 kilometers), by taking the property in question (temple) as the central point/mid point. Petitioners shall give a proof of the plantation along with a letter of proof issued by the area official of Horticulture Department, who shall supervise the plantation as per norms of inter se distance to be kept between two consecutive trees.

9. Compliance of order be made within a period of three months. Registry is directed to follow up the compliance and report the same to this court.

**(RITU BAHRI)**  
**JUDGE**

**25.08.2021**  
vs

**(ARUN MONGA)**  
**JUDGE**

|                                    |               |
|------------------------------------|---------------|
| <b>Whether speaking/reasoned :</b> | <b>Yes/No</b> |
| <b>Whether reportable :</b>        | <b>Yes/No</b> |