

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 13859 of 2020 (O&M)

Date of Decision: 09.08.2021

Rakesh Kumar

... Petitioner(s)

Versus

Union of India and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rajnish K. Gupta, Advocate
for the petitioner(s).

Mr. Abhilaksh Gaind, Advocate
for respondent No.1 and 2.

Ms. Kanika Sachdeva, Assistant Advocate General,
Punjab, for respondent No. 3 to 5.

Mr. Tarunveer Vashist, Advocate
for respondent No.6.

Anil Kshetarpal, J.

1. The petitioner, claiming to be a co-sharer in a piece of land measuring 38 kanals 3 marlas, has filed the present writ petition with the following substantive prayers:-

“b) issuance of a writ in the nature of mandamus thereby directing the official respondents to apportion the amount of compensation calculated/determined under Section 3(G) of the National Highways Act, 1956 (for short “Act”) amongst the petitioner and the private respondent on account of land of the petitioner acquired for the construction/2 laning, 4 laning and widening of

Patran-Patiala stretch between 235.2 kilometer to 163.8 kilometer (Patran), wherein the land of the petitioner has fallen measuring 38 kanals 3 marlas and due to ongoing dispute between the petitioner and private respondent No.6, the entire amount of compensation is likely to be disbursed to the private respondent No.6 illegally, arbitrarily and against the mandate of law and it is further prayed that a writ in the nature of prohibition may kindly be issued in favour of the petitioner thereby staying the disbursement of the compensation of the land acquired to the private respondent No.6, during the pendency of the present writ petition, in the interest of justice.

c) to pass any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper in the peculiar facts and circumstances of the present case".

2. The petitioner claims that some part of the aforesaid land is sought to be acquired by the Central Government for widening/two laning with paved shoulder/four laning, maintenance, management and operation etc. of the land between a stretch of 235.2 kms. to 162.8 Kms. (Patran) in District Patiala wherein the land of the petitioner has fallen. The grievance of the petitioner is that he, being the co-sharer, is entitled to a part of the compensation along with respondent No.6.

3. The National Highways Authority of India has filed an affidavit dated 27.10.2020 explaining that due to change in alignment of the road, no

part of the aforesaid joint land measuring 38 kanals 3 marlas is sought to be acquired. Para 5 of the affidavit reads as under:-

“5. That during the pendency of the writ petition, the Ministry of Road Transport and Highways, Government of India, has issued a new notification dated 01.10.2020, whereby the land intended to be acquired, has been changed in respect of two villages because of change in alignment of the highway. A copy of the said notification dated 01.10.2020, which has also been published in the Daily Ajit on 08.10.2020, is attached herewith as Annexure R-2/1”.

4. On the other hand, respondent No.6 has filed an affidavit claiming that 2 marlas out of the land comprised in rectangle No. 19, khasra No.6 is sought to be acquired.

5. Mr. Ablilaksh Gaiind, Advocate, learned counsel representing the National Highways Authority of India, has clarified that no doubt on 01.10.2020, while issuing the notification issued under Section 3A of the National Highways Authority of India Act, 1956 (hereinafter referred to as “the 1956 Act”), the aforesaid 2 marlas out of the joint land was sought to be acquired, however, as per the notification dated 18.12.2020 under Section 3D of the 1956 Act, no part of the joint land is sought to be acquired.

6. Keeping in view the aforesaid facts, the writ petition is rendered infructuous and the same is disposed of as such.

7. The competent authority is required to decide/refer the dispute to the Civil Court to determine the question of apportionment of the compensation between the various persons entitled thereto as per Section 3H

of the 1956 Act. In future, if any part of the joint land is sought to be acquired, then on the application of any interested person, the competent authority shall proceed to decide the same in accordance with law.

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

(Anil Kshetarpal)
Judge

August 09, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No