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

CWP No.15749 of 2020(O&M)

Date of Decision:07.12.2021

Smt. Kaushalya Devi and another

.....**Petitioners**

Vs

Union of India and others

.....**Respondent**

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Sunil Panwar, Advocate
for the petitioners.

Ms. Ashish Yadav, Addl., A.G., Haryana.

Mr. Chetan Mittal, Senior Advocate with
Mr. R.S. Madan, Advocate
for NHAI.

Mr. J.P. Sharma,, Advocate
for respondent No.5.

(Proceedings through video conferencing)

RAJ MOHAN SINGH, J. (Oral)

This writ petition has been preferred under Articles 226/227 of the Constitution of India for the issuance of an appropriate writ or direction especially in the nature of mandamus, directing respondents No.1 to 4 to continue providing the right of way by making an underpass beneath the under construction National Highway No.152-D or a service lane beside the said highway, so as to prevent complete blockage of

connectivity from the nearest public road i.e. Mahendergarh-Dongra Ahir Road to the only common thoroughfare.

Notice of motion was issued to respondents No.1 to 5 on 29.09.2020.

On 26.10.2020, the case was adjourned in order to enable the learned counsel for the NHAI to assist the Court as to how the villagers will approach the underpass, if they are not given side passage. Thereafter, the case was further adjourned in order to enable the learned counsel for the NHAI to get instructions as to if the land in dispute has already been acquired and a path can be given to the villagers. In due course, the matter was taken up on 29.10.2020 and following order was passed:-

“Learned counsel for National Highway Authority of India submits that out of the acquired land after deducting land for plantation, drainage and other utilities, only 3 meters land beyond boundary wall can be given for providing pakka passage to the village.

At this stage, learned counsel for the petitioners has emailed photographs of the village Surjanvas and Mojawas road where similar service lane of around 8 meters has been given to the said villages.

Learned counsel for National Highway Authority of India seeks time to examine the photographs and to get instructions thereafter.

List on 30.10.2020.

To be shown in the urgent list.

A photocopy of this order be placed on the file of another connected case.

29.10.2020
Divyanshi

(RITU BAHRI)
JUDGE”

On the next date i.e. 30.10.2020, learned Senior Counsel for respondent No.4 i.e. NHAI submitted before the Court that in 27 kms around the land of the petitioners, many applications have been received to provide alternative passage along with national highway to reach underpass. Learned Senior Counsel further submitted that the land has been acquired after following due procedure by the National Highway Authority and it is the duty of the State Administration to provide alternate passage to the petitioners, if any required. It was also directed that the National Highway Authority will approach the Deputy Commissioner, Narnaul for resolving the issue as to how much passage is required to be given to the petitioners.

Thereafter, in due course, the matter was taken up on 17.12.2020 and following order was passed:-

“Counsel for respondent no.4 would inform, on instructions, that District Revenue Officers have already submitted a report to the Deputy Commissioner, Narnaul and the matter is pending before the said authority for hearing the parties.

Counsel for respondents no.2 and 3 has expressed his inability to say something about progress of proceedings in the office of Deputy Commissioner, Narnaul. He prays for time to seek instructions in the matter.

Adjourned to 08.02.2021.

Interim order to continue till the next date of hearing.

Photocopy of this order be placed on the file of connected case.

December 17, 2020 (REKHA MITTAL)
D. Gulati JUDGE”

When the case was taken up on 27.09.2021, the Court after perusal of material on record, recorded the following order:-

“This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

Affidavit dated 16/20.09.2021 of Rajesh Khayalia, Competent Authority Land Acquisition Collector-cum-District Revenue Officer, Narnaul, District Mahendergarh has been filed, stating therein that grievance raised in this writ petition stands redressed. It is further stated therein that petitioner No.1 vide letter dated 08.04.2021 addressed to the Project Director, Bhiwani has specifically stated that with the construction of Box Culvert, grievance of the residents of village Bhalkhi have been resolved and they have no further objections in respect to the rasta/passage. Copy of said letter is attached as

Annexure R-2. The Box Culvert, it is submitted, is in place.

Learned counsel for the petitioner submits that he has not received a copy of the said affidavit alongwith the Annexures. Same be supplied to him, during course of the day Learned counsel for the petitioner prays for some time to verify the same.

Learned counsel for respondent NHAI to verify whether work in question is complete in all respects as the photograph appended with the said affidavit prima facie indicates that the work is still in progress.

List on 08.11.2021.

A photocopy of this order be placed on the file of above mentioned connected case.

27.09.2021

Sunil

**(LISA GILL)
JUDGE"**

Evidently, the box culvert has been constructed and there was no objection of passage. The case was adjourned at the instance of learned Senior Counsel for respondent No.4 to verify whether work in question has been completed in all aspects or not because as per photographs appended with the affidavit dated 20.09.2021 of Rajesh Khayalia, Competent Authority Land Acquisition Collector-cum-District Revenue Officer, Narnaul, District Mahendergarh, the work was shown to be in progress.

Thereafter, learned counsel for the petitioners submitted before the Court on 08.11.2021 that so far as

construction of box culvert is concerned, the petitioners are satisfied, but the retaining walls on both sides of the box culvert and drains are still to be constructed by respondent No.4. Learned counsel for respondent No.4 sought more time to have further instructions.

Today, learned Senior Counsel for respondent No.4 with reference to latest photographs submits that even the retaining walls of both sides of box culvert have been plastered. So far as grievance of the petitioners in respect of construction of drains/water logging is concerned, the petitioners may approach the concerned authority for the said grievance as there is nothing on record to suggest that level of box culvert is low so as to construct any such drainage for draining out any accumulated water therein.

In my considered opinion, the suggestion is innocuous enough to be accepted by the petitioners. Learned counsel for the petitioners also agrees that needful in the context of box culvert and maintenance of retaining walls has already been done to the satisfaction of the petitioners. For the construction of drains, if at all required, the petitioners would approach the concerned authority by way of fresh claim/representation.

This writ petition is disposed of as such, however, liberty is granted to the petitioners that in case, they are still

aggrieved by non-construction of drains/water logging, they may espouse their grievance before the concerned authority by way of fresh representation in accordance with law.

07.12.2021
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No