

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 2512 of 2020 (O&M)
Date of Decision:08.01.2021

Suresh and othersPetitioner

Versus

State of Haryana and others Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Pawan Kumar Sharma, Advocate
for the petitioners.

Mr. Ashish Yadav, Addl.AG., Haryana.

LISA GILL, J(Oral).

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

Petitioners lay challenge to order dated 12.10.2020, passed by the learned Additional Civil Judge (Sr. Division), Assandh whereby their application under Order 39 Rule 1 and 2 CPC filed along with their suit for permanent injunction, has been dismissed.

Petitioners, whose land is stated to have been acquired under the National Highways Act, 1956, filed a suit for permanent injunction for restraining the respondents from interfering in peaceful possession of the plaintiffs and to stay dispossession of the petitioners till compensation under the Act is received by them. It is claimed that it is only the present petitioners who are entitled to compensation, however, the authorities are trying to disburse the same to others, who have no right or ownership over the acquired land. It is submitted that the petitioners submitted representation dated 06.07.2020 before the Chief Minister, State of Haryana, Deputy Commissioner, Karnal, District Revenue Officer, Karnal, Tehsildar-

cum-Collector Grade-2, Asandh, Karnal, Kannongo/ Halqa Patwari, Village Rahra Asand, Karnal, Annexure P-2 and thereafter civil suit for permanent injunction, Annexure P-3, was filed when no action was taken by the authorities.

Aggrieved of dismissal of the application under Order 39 Rule 1 and 2 CPC filed along with the suit, this revision petition has been filed.

I have heard learned counsel for the petitioners and have gone through the file with his assistance.

It is apparent that the petitioners seeks to raise a dispute regarding apportionment of the compensation. It is not in dispute that the amount of compensation stands deposited with the treasury. Section 3H and 4 of the National Highways Act, 1956, read as under:-

“3H. Deposit and payment of amount.—

(1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 3G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 3D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.

4. National highways to vest in the Union.—All national highways shall vest in the Union, and for the purposes of this Act “highways” include—

- (i) all lands appurtenant thereto, whether demarcated or not;
- (ii) all bridges, culverts, tunnels, causeways, carriageways and other structures constructed on or across such highways; and
- (iii) all fences, trees, posts and boundary, furlong and milestones of such highways or any land appurtenant to such highways.”

Learned counsel for the petitioners is unable to deny that the dispute pertaining to apportionment of the amount of compensation and the question as to whether who is entitled to receive the amount in whole or in part is to be decided by the Court of competent jurisdiction in terms of Section 3H of the National Highways Act. Compensation qua the acquired land, it is informed stand deposited with the Treasury. In this view of the matter, learned Additional Civil Judge (Sr. Division), Assandh, has rightly rejected the petitioners application under Order 39 Rule 1 and 2 CPC.

Learned counsel for the petitioners is unable to point out any illegality, infirmity or perversity in the impugned order dated 12.10.2020,

passed by the learned Additional Civil Judge (Sr. Division), Assandh, which calls for interference by this Court in exercise of revisional jurisdiction.

Petition is accordingly dismissed. Needless to say, the petitioners are at liberty to agitate their claim for apportionment, if any, under the relevant provisions of law. The present order would have no bearing whatsoever on the said proceedings, if any.

08.01.2021
s.khan

[LISA GILL]
Judge

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