

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

CR-1544-2021

Date of Decision: 19.08.2021

**State of Haryana through Collector and others
VS**

....Petitioners

Kamruddin

....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. R.K.S Brar, Addl. A.G. Haryana
for the petitioners

SUDHIR MITTAL, J. (Oral)

The respondent had filed a civil suit as his land had been used for construction of a canal without acquisition. The suit was decreed vide judgment and decree dated 27.11.2013. Decree reads as under :-

It is ordered that the suit of the plaintiff is hereby decreed as prayed for a decree for possession in respect of the suit land detailed in para no.3 of the plaint is decided in favour of the plaintiff and against the defendants with costs. However, the defendants are at liberty to acquire the land to the extent of which gurgaon canal has been carved out as per law and to pay compensation as earlier estimated by the defendants and according to the plaintiff. If defendants failed to do so, the suit land be brought in its original shape and handed over to plaintiff. Further, a decree for permanent injunction restraining the defendants from widening the said canal without completing the acquisition proceedings and paying compensation to the plaintiff is passed. The suit of the plaintiff is hereby decreed with costs.

Admittedly, the suit land mentioned in para no.3 of the plaint measures 3 kanals. After passing of the aforementioned judgment and decree, the State purchased area measuring 2 kanals and 16 marlas only and, thus, the execution of the judgment and decree was sought. The execution has been decided vide order dated 18.09.2019 and the petitioner-State has been directed to buy remaining 4 marlas also.

Learned State counsel submits that a perusal of the decree shows that the defendants in the suit were at liberty to acquire land to the extent to which Gurgaon canal has been carved out. According to him, Gurgaon canal has been carved out in 2 kanals 16 marlas and, thus, the executing Court was in error in directing the petitioner-State to purchase the remaining 4 marlas also.

Before the executing Court, no evidence has been lead by the State of Haryana in support of its submission that only 2 kanals 16 marlas has been utilized for construction of the Gurgaon canal. Thus, the arguments raised cannot be accepted. Decree is in respect of 3 kanals of land and the executing Court was perfectly justified in directing the State to purchase the entire land, which was the subject matter of decree.

Thus, the revision petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

19.08.2021

Poonam Negi

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No