

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

RSA-3058-2002(O&M)  
and X-Objec.-25-2019  
Decided on : 12.10.2022

State of Haryana & others

..... Appellants

Versus

Satpal Wadhwan and other

..... Respondents

**CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Rohit Arya, DAG, Haryana.

Mr. Jagdish Manchanda, Advocate  
for the respondents.

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**Manjari Nehru Kaul, J.(Oral)**

The defendant-State of Haryana is in appeal impugning the judgment and decree dated 25.03.2002 vide which the First Appellate Court reversed the findings recorded by the trial Court on 31.01.2001 in a suit for declaration and mandatory injunction instituted by the respondents-plaintiffs. The defendant-State is before this Court in Regular Second Appeal.

Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiffs filed a suit seeking mandatory injunction for ordering the defendant-State to announce the award pertaining to the land which had been acquired vide notification No.4 and 6 dated 31.12.1986 and 31.03.1987 respectively. The plaintiffs also sought a decree for permanent injunction to restrain the defendant from widening the road marked

AQRSTUVWXYZ X1 X2, and in the alternative a decree for possession of the land marked as ABCDEFGHIJK out of Khasra No.277.

As per the plaintiffs, their predecessor was allotted land in village Gharaunda, Tehsil and District Karnal in the year 1947 in lieu of the land left behind in Pakistan and given possession of the land after consolidation in the year 1954-55. During the consolidation proceedings, a road was carved out of Khasra No.277 i.e. Gharaunda to Malikpur and Sheikhpura road (hereinafter referred to as 'road'). The plaintiffs subsequently acquired ownership of the above-mentioned land from their predecessor. In the year 1981, B&R Department of PWD laid out a plan to change the alignment of the road, and assured the landowners including the plaintiffs that they would be duly compensated if on account of the alignment, they were adversely effected. Superintending Engineer, PWD B&R Department issued a notification Nos.973 and 423 dated 31.12.1986 and 03.03.1987 under Sections 4 and 6 of the Land Acquisition Act respectively, as a consequence of which Award No.7 was announced by the Land Acquisition Collector, Haryana, PWD B&R, Ambala Cantt for village Malikpur Hadbast No.23 (Ex.PW S/C). However, the defendant did not abide by the assurance given by them and no compensation was paid to the affected landowners, as a result of which the plaintiffs were left with no other option but to file the suit in question.

In their written statement, the defendant challenged the locus-standi of the plaintiffs and asserted that the predecessors of the plaintiff had voluntarily acquiesced to the construction and widening of the road and still further, no award was passed to compensate the plaintiffs as the road in

question had been constructed under the Village Cooperative Development Scheme (Ex.D-1) (hereinafter referred to as 'Scheme') for which the beneficiaries were to share expenses to the extent of 1/4<sup>th</sup> in the construction, in the shape of voluntary earth work, free land etc. It was also asserted that the two notifications on which reliance was being placed by the plaintiffs had been published in ignorance of the provisions and hence stood withdrawn.

Learned trial court dismissed the suit of the plaintiffs by holding that the plaintiffs were not entitled to the relief prayed for, as the road had been constructed under the Scheme (Ex.D-1), in which the villagers contributed their share to the extent of 1/4<sup>th</sup> in the form of free land, earth work, cash payment etc. and as such, the villagers surrendered their land voluntarily. Therefore, the question of awarding any compensation did not arise.

The First Appellate Court set aside the judgment and decree of the trial Court by holding that the defendant failed to produce any agreement bearing the signatures of the plaintiffs, for consenting to give land, free of cost, for the purpose of raising construction of the metalled road. Further, Ex.D-1 was only an estimate for construction of the road prepared at the request of the villagers and as such, the plaintiffs could not be precluded from seeking compensation from the defendant. The Appellate Court allowed the prayer and awarded land equivalent to the land of plaintiffs from Khasra No.277.

Learned counsel for the respondent-plaintiffs, at the outset, has urged and prayed that their case is fully covered by the judgment of this

Court in *RSA No.1249 of 2007* titled as *State of Haryana vs. Raj Kumar and others dated 17.08.2007* which is pari materia with the facts of the instant appeal. He prays that in view of the respondents-plaintiffs' case being squarely covered by the aforesaid judgment of this Court, cross-objections filed by the respondents-plaintiffs be also allowed and compensation be awarded to them as had been done to the respondents in RSA No.1249 of 2007.

On a pointed query put to learned State counsel as to whether the case of the respondents-plaintiffs was pari materia with RSA No.1249 of 2007, he has very fairly conceded that the respondents-plaintiffs were squarely covered by the judgment of this Court passed in RSA No.1249 of 2007. He submits that in view of the judgment of this Court, the present appeal be disposed of.

Heard learned counsel for the parties and perused the judgment of this Court.

It is undisputed that, in the case in hand, firstly the land of the plaintiffs has been utilized by the appellants for constructing the road; and secondly, no compensation has been paid by the appellant-State to the plaintiffs for the same. Though the appellant-State had submitted before the Appellate Court that the plaintiffs had voluntarily given their land as contribution under the Scheme, no documentary evidence, however, was led in support thereof. Under these circumstances, the plaintiffs cannot be deprived of their right to be compensated. They are thus, held entitled to the same. Moreover, as the matter in issue in the present appeal is identical

to the matter in issue in RSA No.1249 of 2007 as has been also conceded by the learned counsel for the appellant-State, the instant appeal stands dismissed. The cross-objections filed by the respondents stand allowed.

12.10.2022  
sonia

(MANJARI NEHRU KAUL)  
JUDGE

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|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether reportable :       | Yes/No |