

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3228-2018 (O&M)
Date of Order: 30.05.2022

Ash Mohammad

..Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Akshay Jindal, Advocate, for the petitioner.
Mr. Jaspal S. Pannu, AAG, Haryana with
Ash Mohd., SDE, PWD(B&R), Nuh.

ANIL KSHETARPAL, J(Oral)

The petitioner herein is a decree holder. His suit for grant of decree of permanent injunction as well as mandatory injunction and possession has been decreed. The operative part of the judgment dated 21.12.2013, reads as under:-

“20. As a sequel to my findings on the aforesaid issues, suit of the plaintiff is hereby decreed as prayed for. A decree for permanent injunction restraining the defendants from dispossessing or interfering in peaceful ownership and possession of the plaintiff over the land detailed in para no.1 of the plaint and also to encroach upon and raise any sort of construction of said road over the same or any part thereof in favour of the plaintiff and against defendants and a decree of mandatory injunction and possession directing the defendants to remove the said construction and restore the suit land in its original situation and hand over the possession of the same to the plaintiff and against the defendants with costs. However, keeping in view feasibility and inconvenience, defendants are at liberty to acquired the land to the extent of which, Kanshali to Ghaghas road has been carved out as per law and pay compensation as per law and rules of Land Acquisition Act revisable time to time to the plaintiff. If defendants failed to do so, then suit land be brought in its original shape and same be handed over to plaintiff.”

The respondents are State of Haryana and its officials. They are

alleged to have constructed a road over the land owned by the petitioner and his predecessor-in-interest without acquiring the same, in accordance with law. The petitioner's application for execution of the decree has been disposed off being satisfied on the ground that the State of Haryana has deposited the amount of Rs.14, 812/-. The Executing Court has held that the road was constructed in the year 1971 and the State of Haryana is offering to pay the market value of the land as per the 1971 rates, therefore, the execution proceedings are liable to be disposed off being satisfied.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

It is evident that the Court, in order to protect public inconvenience directed the defendant to remove the unauthorized occupation and permitted the State to acquire the land, in accordance with law and pay compensation to the petitioner. Since, the State of Haryana failed to acquire the land, an execution petition was preferred by the decree holder. If the State wants to acquire the land, it is required to follow the procedure for such acquisition, in accordance with law. On 01.01.2014, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into force. The State was required not only initiate the proceedings but also conclude the same within a reasonable time. Further, the Executing Court erred while forming an opinion that the plaintiff is only entitled to the market value of the acquired land on the date he was dispossessed from the land. As per the provisions of the Land Acquisition Act, 1894 and the 2013 Act, the market value is required to be assessed as on the date of the preliminary notification under the related sections for acquisition of land. Apart from that, the landowner is entitled to

compensation as per the provisions of the Act.

Consequently, the order under challenge is set aside. The Executing Court is requested to pay the amount as already deposited by the State, to the petitioner. The Executing Court will thereafter, proceed with the matter.

Disposed of accordingly.

All the pending miscellaneous applications, if any, are also disposed of.

May 30, 2022

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(ANIL KSHETARPAL)
JUDGE

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