

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

105

CWP No.4302 of 2021(O&M)

Date of Decision: 20.05.2022

Prakash Veer and others

....Petitioners.

Versus

State of Haryana and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Abhimanyu Singh, Advocate for the petitioners.

Mr. Aman Bahri, Additional A.G. Haryana.

Mr. Rajesh K. Sheoran, Advocate for respondents No.3 and 4.

Amol Rattan Singh, J.(Oral)

By this petition, filed under the provisions of Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari, quashing the impugned notice dated 23.12.2020 vide its memo No.202775 (Annexure P-3), in terms of which they were directed by the Estate Officer, HSVP, Bhiwani, to remove unauthorized encroachment/construction within 7 days, failing which the HSVP would take necessary action. The petitioners have also prayed for issuance of a writ in the nature of mandamus seeking a direction to the official respondents, especially respondent No.3 (Estate Officer), not to take any coercive steps against them in view of the fact that their residential houses have been constructed over the land in dispute since long (as contended) and they are residing there for many years, and to take into consideration the stand of the State of Haryana/respondent No.1 vide the information given in the communication, Annexure P-1, where they had

admitted that they had left out khasra No.133/16, 133/25 from the purview of acquisition in the year 2013. The petitioners have further prayed for a direction to respondent No.3 to decide the representation moved by the petitioners on 28.12.2020.

Learned counsel for the petitioners points to the impugned notice dated 23.12.2020 (Annexure P-3), shown to be issued under the provisions of sub-section (1) of Section 18 of the Haryana Shehri Vikas Pradhikaran Act, 1977, and submits that the notice very obviously is addressed to the "Harijan Basti", VPO Dadri, District Dadri, which in any case is unsustainable it not having been issued to any individual upon whom it can be shown to have been served.

As per the short reply filed on behalf of respondents No.3 and 4 (HSVP), the petitioners are occupying that part of the land as was actually acquired eventually vide an Award passed on 18.01.2010 (Award No.1), with it also stated that the 13 kanals and 10 marlas of land comprised in khasra/killla No.16(8-0) & 25/3 (5-10) on which there was thick population living, was not acquired; but that the petitioners are actually living also on acquired land (which of course counsel for the petitioner denies.)

Eventually, it would be a matter of demarcation in the presence of the petitioners and others living in that area specifically as regards the area which is stated to have been acquired, but with the impugned notice issued itself being wholly defective and therefore legally not sustainable.

Consequently, the petition is allowed with the said notice quashed, with liberty to the respondents to issue proper notices to individuals found to be living on acquired land, after which of course it would be a matter of demarcation in the presence of those individuals as to whether the land they are occupying is acquired land or unacquired land.

In the meanwhile, once the notice itself has been set aside, the petitioners would not be evicted except by due process of law as given above.

(AMOL RATTAN SINGH)
JUDGE

(LALIT BATRA)
JUDGE

20.05.2022

D.Gulati

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No