

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 5931 of 2020 (O&M)

Date of Decision: 24.05.2022

Harpal Singh and Others

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rakesh Gupta, Advocate
for the petitioner(s).

Mr. Harsh Vardhan, Assistant Advocate General,
Haryana, for the respondents.

Anil Kshetarpal, J.

1. On 22.04.2022, the following order was passed:-

“On instructions from Sh. Hari Om Attri, Land Acquisition Collector, Fatehabad, Sh. Roshan Lal, SDR, Department of Irrigation and Sh. Vijay Kumar, SDE, PWD B&R, Fatehabad, the learned counsel representing the State has admitted that the property of the petitioners has been taken away by the State for public purpose without the payment of any compensation. The learned counsel admits that certain part of their land has been used for construction of the road, whereas, the remaining has been used for the constructing a drain.

He prays for a short adjournment to think over the matter.

It is well settled that the State cannot take away the property of a resident without acquiring the same in accordance with law. In such a situation, the State of Haryana is required to take a decision as to whether it wants to keep the property or leave it.

Keeping in view the aforesaid facts, adjourned to 24.05.2022. If no decision is taken before the next date of hearing, the Principal Secretary-cum-Additional Chief Secretary, Department of Irrigation and Water Resources shall remain present in the Court”.

2. The petitioners complain that their valuable land has been encroached upon by the Department of Irrigation and Water Resources, Haryana, as well as the Public Works Department (Buildings & Roads), Haryana.

3. Pursuant to the aforesaid order, an affidavit of the Executive Engineer, PWD (B&R) has been filed and the same is taken on record. In the affidavit, an undertaking has been given to deliver the possession of the land to the petitioners.

4. The learned counsel representing the State of Haryana, on instructions from Mr. Munish Sharma, Executive Engineer, W.S. Division, Tohana and Mr. Vijay Kumar, Sub Divisional Engineer, Public Works Department (Buildings and Roads), Fatehabad, has stated that the Government has taken a conscious decision to acquire the land measuring 4 kanals and 4 marlas, which was utilized by the Department of Irrigation and Water Resources. He submits that the process for compulsory acquisition of

the land shall be initiated and completed within a period of one year, from today.

5. The learned counsel representing the petitioners submits that the petitioners are entitled to compensation and damages for the unauthorized use and occupation of their land.

6. Such matter can only be adjudicated upon on the basis of appreciation of evidence. The quantum of damages depends upon the evidence, if any, produced.

7. Keeping in view the aforesaid facts, the present writ petition is disposed of in terms of the undertaking given by the learned counsel representing the State of Haryana.

8. Needless to observe that the petitioners shall be entitled to resort to proper remedy not only for claiming damages for illegal use and occupation of their land, but also for appropriation of compensation.

9. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

May 24, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No