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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-14743-2022 (O&M)

Date of decision:07.09.2022

RAMPAL AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

HON'BLR MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. P.R. Yadav, Advocate
for the petitioners.

Mr. Baldev Raj Mahajan, A.G. Haryana with
Mr. Pradeep Prakash Chahar, DAG, Haryana

Mr. Baldev Raj Mahajan, Sr. Advocate with
Ms. Rajni Gupta, Advocate
for respondent No.3.

Mr. R.S. Rai, Senior Advocate with
Mr. Rajeev Anand, Advocate and
Ms. Radhika Mehta, Advocate
for respondent No.4.

SURESHWAR THAKUR, J. (ORAL)

CM-12903-CWP-2022

The instant application has been filed for seeking permission to place on record Counter Affidavit dated 23.08.2022 on behalf of the petitioners and Survey Report dated 16.08.2022.

For the good, and, valid reasons, recorded in the application, the same is allowed, subject to all just exceptions.

CWP-14743-2022

1. The respondent No.4, as revealed by an affidavit sworn by the

Assistant Engineer, Municipal Corporation Manesar, has been accorded

permission, by the competent authorities concerned, but the said permission is only for laying of sewer, and, water pipelines, and, is not for raising mettaled construction on any revenue rasta, on which the inhabitants of the villages adjoining the site of construction, have a right of easement.

2. Be that as it may, the learned counsel for the petitioners has contended, with his referring to certain maps, which have been placed on record along with CM-12903-CWP-2022, that owing to overlaying of sand, on the revenue rasta, the height of the rasta has been raised, with the resultant effect that, there is an imminent threat of water logging occurring on the revenue rasta.

3. Though in the reply on affidavit, filed to the petition on behalf of co-respondent No.3, the above fact is denied, but it is also revealed therein that water logging, if any, is seasonal, but is not routine.

4. Moreover, the learned Advocate General for the State of Haryana has contended that the homesteads, and, also the lands/roads of the villages, which may become posed with any purported threat of water logging occurring thereins rather are located much after from the village road, for whose construction, except for its metalling, permission has been granted by the Competent Authority. Therefore, he contends that the above prayer addressed before this Court is meritless.

5. Without at this stage going into the merits of the contentions, as, raised respectively by the learned counsel for the petitioners, and, by the learned Advocate General, this Court deems it fit, and, appropriate to direct the learned Advocate General, Haryana to ensure, that after a meeting being convened of the local villagers concerned, in the office of the learned Collector, whereins, co-respondent No.4, and, the local villagers concerned shall imperatively participate, hence ensure that, thereins the grievance addressed by the local

villagers concerned, are mitigated. The learned Collector concerned, is also directed to ensure that, he directs that an independent survey be conducted of the area concerned, to ensure that henceforth, not even in the rainy season any water logging occurs in the fields/roads of the local villages concerned. After the spot inspection is carried out, the learned Collector shall also proceed to, with the consent of all concerned draw, besides shall also, enforce the implementation of the mitigating proposals by co-respondent No.4, with respect to non-occurrence hereafter of water logging in the fields/roads adjoining the construction site. The above proposals will be restricted only, to the area where the construction is being carried by co-respondent No.4.

6. The learned Advocate General, Haryana may also through his aegis ensure that the Gram Sabha concerned/Local Bodies concerned, may, in its wisdom deem it fit to pass a resolution for the metalling of the apposite revenue rasta.

7. Since the learned counsel for the petitioners states, at the bar, that he has no objection, subject to water logging not persisting in the area adjoining the construction site concerned, qua the respondent concerned, proceeding to metal the revenue rasta concerned. If so, the learned Advocate General, Haryana may explore the possibility of metalling the revenue rasta concerned, but through, adoption of scientific methodology.

8. Disposed of with aforesaid observation.

(SURESHWAR THAKUR)
JUDGE

07.09.2022

Ithlesh

(N.S. SHEKHAWAT)
JUDGE

ITHLESH KUMAR	Whether speaking/reasoned:-	Yes/No
2022.09.08 15:13	Whether reportable:	Yes/No
I attest to the accuracy and authenticity of this order		