

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

CWP-20742-2021 (O&M)
Date of decision:- 20.12.2022

Pitambar DayalPetitioner
vs.

State of Haryana and ors. ...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Sandeep Sharma, Advocate
for the petitioner.

Mr. Saurabh Mago, AAG, Haryana

Mr. Deepak Sabharwal, Advocate
for respondent Nos. 3 and 4.

Ritu Bahri, J.

In the instant petition, petitioner is seeking issuance of direction to the respondents to acquire the petitioner's land and give the compensation of the petitioner's land (already utilized for Metro Railway Line), after passing the award in view of the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(for short 'Act 2013'). Further prayer of the petitioner is for quashing impugned public notice dated NIL (P-3) and purchase policy dated 08.03.2019 (P-7), which has been issued by the respondents to compel the land owners for execution of sale deed in their favour at lower rate i.e Rs.29722.41/- per square meter without acquisition of land.

It is not in dispute that the petitioner is owner of land situated in Ballabgarh, District Faridabad. This land is situated on the National Highway-Faridabad-Ballabgarh-Mathura Road where respondents had taken

Metro Railway Line without any acquisition and without paying compensation to the petitioner. The land of the petitioner has been forcefully taken by the respondents without following the acquisition process in the year 2017. Petitioner has placed on record photographs (P-13) to show that his land measuring 310 sq yards was taken in possession by the respondents for construction of Metro Railway Line. Petitioner has given representation dated 10.09.2020 and 22.03.2021 (P-4 and P-5 respectively) seeking compensation in respect of the above land bearing Khasra No. 139/2 measuring 310 sq yards.

On notice of the petition, a reply dated 23.03.2022 of respondent Nos. 3 and 4 has been filed stating therein that this Court vide order dated 06.09.2021 (P-9) in similarly situated cases bearing Main Case No. CWP No. 12118-2019 titled as Gajey Singh through Lrs and anr vs. State of Haryana and others, disposed off the writ petition along with connected cases, in view of affidavit of Chief Administrator HSVP cum MD HRMTC. The operative part of order dated 06.09.2021 reproduced as under:-

An additional affidavit of Administrator, HSVP, Faridabad, has been filed while taking a stand that wherever the land has been utilized for metro project without acquisition, the Chief Administrator, HSVP-cum-MD, HMRTC, has approved the payment as per the provision of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Para 4 of the affidavit reads as under:-

“That in the present case alongwith other connected matters where land has been utilized for metro project without acquisition, it has been informed by Advisor (Planning), Haryana Mass Rapid Transport Corporation Limited vide its letter dated 03.09.2021 that Chief Administrator, HSVPcum-Managing Director, HMRTC has

approved the payment to be done as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 to the land owners whose land has been utilized for the construction of metro. Further, it has been requested vide letter dated 03.09.2021 to release the funds to the land owners whose court cases are listed for hearing on 06.09.2021 in first go. Thereafter, the payment of other land owners may also be made by giving priority to the matters under litigation. Thus, the whole process to make the compensation has to be initiated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. A decision to this effect has been taken and the process will be initiated soon. A copy of letter dated 03.09.2021 is annexed herewith as Annexure-A.”

Sh. Deepak Sabharwal, Additional Advocate General, Haryana, has undertaken that the payment shall be released to the petitioners within a period of six months from today.

Sh. Amit Jhanji, Sr. Advocate representing the petitioners submit that in view of the aforesaid stand, the writ petitions be disposed of. “

In the reply, it has been submitted that in pursuance of the application dated 30.12.2021 and 04.03.2022 of the petitioner, a Joint Site Inspection Committee (JSIC) comprising of Estate Officer, HSVP, Faridabad, District Town Planner, Faridabad, Land Acquisition Officer, Faridabad, Sub Divisional Engineer (Survey), HSVP, Faridabad and Account Officer o/o Administrator, Faridabad has been formed to examine the claim of the petitioner. Copy of order dated 08.03.2022 of constitution of JSIC has been placed on record as Annexure R-1. Thereafter, on examination of documents of the petitioner, respondent No. 4 wrote a letter dated 15.03.2022 (R-2) to the petitioner that TATIMA of the land has not been provided by the petitioner and ownership of the land in question is not

clear and was asked to submit the same within a period of two days. Further respondent No. 4 wrote a letter dated 22.03.2022 (R-3) to Tehsildar, Ballabgarh to provide the ownership status of the land in question. As per on spot field report of SDE (Survey) and Patwari of land Acquisition Officer, Faridabad and Estate Officer, HSVP (R-4), the petitioner has requested time to provide the ownership status of land.

In the reply, it has been stated that as and when the petitioner provides the requisite documents i.e Tatima of land in question and ownership status of report is received from Tehsildar Ballabgarh (R-3), the respondents will release the compensation to the petitioner, in view of order dated 06.09.2021 (P-9).

Thereafter, a detail reply dated 18.10.2022 has been filed on behalf of respondent No. 4 stating therein that the name of the petitioner is only enumerated in column of Khanakhast in the column of the owner, Municipal Corporation, Faridabad is recorded as owner of the land in question, as per register of mutations (R-3). It is not disputed that the present petitioner has succeeded in two rounds of litigation against the Municipal Corporation, Faridabad both in original suit and at appellate State. However, the said orders have not been implemented in the revenue records (R-2) as the Municipal Corporation, Faridabad is still shown in the ownership column of the land in question. Further Municipal Corporation, Faridabad in its reply dated 20.10.2022 (R-4) has stated that the Courts below had only confirmed the possession of the petitioner over the land in question and not the title of the land.

After hearing learned counsel for the parties at length and perusing the record, this Court is of the view that the petitioner is owner of

permanent injunction against the Municipal Corporation Faridbad seeking permanent injunction restraining the defendant from interfering in his peaceful possession over the property described in para No. 1 and 2 of the plaint and this suit was decreed on 20.04.1998 to the effect that since the petitioner/plaintiff is the owner in possession of the suit land described in para No. 1 and 2 of the plaint, defendant was restrained from interfering in the peaceful possession over the suit property.

Since, the respondents have not disputed the judgment dated 20.04.1998 whereby the suit filed by the petitioner was decreed and the petitioner was found to be owner of the disputed land in Khasra No. 139/2 measuring 310 sq yards, the present petition stands disposed of and direction is given to the respondents to calculate the compensation of the petitioner as per Act 2013, in view of order/judgment dated 06.09.2021 (P-9). This exercise shall be completed within a period of six months from the date of receipt of certified copy of this order.

Since the main petition stands disposed of, civil misc. applications, if any, shall also stand disposed of.

(RITU BAHRI)
JUDGE

20.12.2022
G Arora

(MANISHA BATRA)
JUDGE

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