

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

125

CR-7713-2019

Date of decision: 22.09.2022

BALJIT AND ANOTHER

..Petitioners

Versus

STATE OF HARYANA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Harsh Vardhan, AAG, Haryana.

ANIL KSHETARPAL, J(Oral)

The petitioners before this Court are the decree holders. A suit filed by them against the State of Haryana and its officials for grant of decree of permanent injunction, though, dismissed by the trial Court but decreed by the First Appellate Court. They assail the correctness of the order passed by the Executing Court, dismissing the execution petition.

The operative part of the judgment passed by the First Appellate Court reads as under:-

“Consequent to above discussion, the impugned judgment and decree dated 12.1.2010 passed by learned lower court are hereby set aside. The appeal is accepted with costs. Suit of the plaintiffs-appellants is decreed with costs. A decree for permanent injunction is hereby passed, whereby defendants-respondents are perpetually restrained from raising any construction or causing any obstruction over the 22' wide metalled road i.e. disputed passage as shown with red colour in the site plan Ex.P2. Decree-sheet be drawn accordingly. This file be consigned to record room. Trial court record be sent back along with a copy of this judgment.”

The petitioners are the residents of area around the Railway Station, Ballabgarh, Faridabad. The judgment passed by the First Appellate

Court was upheld in the High Court. In the meantime, the Haryana Mass

Rapid Transport Corporation Ltd. in order to provide the metro services, constructed certain infrastructure which resulted in blocking of 22 ft. road. Subsequently, some part of the project was transferred to the Delhi Metro Rail Corporation.

The petitioners have filed an execution petition complaining that the aforesaid road despite the decree of Court has been blocked. The State of Haryana while filing the objections stated that the project has already been transferred to the Delhi Metro Rail Corporation and as per the wishes of the residents, an alternative 24 ft. wide road has been provided to the residents.

Para 5 and 12 of the objections, read as under:-

“5. That as per the wishes of the residents of Navlu Colony a 24 ft road as demanded by all the residents of Navlu Colony was duly given in lieu of the 22ft Pacca Rasta (subject matter of present execution) way. It shows that the subject matter of the present execution petition has been satisfied in full. An additional 10 lac rupees was spent by Faridabad depot in the construction of the 24ft road which starts from Delhi-Mathura highway and goes to railway station as was demanded by the residents of the Navlu Colony. A copy of the demand draft reflecting a payment of 4,10,000 is annexed as Annexure- JD2.

12. Accordingly 10 lac (approx.) was to be paid by Faridabad depot and 70 thousand to be paid for shifting of the electric transformers. The road was constructed by Municipal Corporation Faridabad in due time and the subject matter of the present decree was satisfied as per the wishes of the residents of Navlu colony. A copy of the cost involved in shifting of the electric transformers is also annexed as Annexure 9.”

The execution petition has been dismissed on the ground that the land has already been transferred to the Delhi Metro Rail Corporation and now no further construction has been carried out on the said land.

This Bench has heard the learned counsel representing the parties and with their able assistance perused the paperbook.

On the one hand, the learned counsel representing the petitioners contends that once the decree has been passed, the same is required to be implemented and since the Delhi Metro Rail Corporation is successor interest of the Haryana Government, therefore it is binding on them.

On the other hand, the learned counsel representing the State of Haryana on instructions from Sh. Gagan Gulia, ADA and Sh. Kartar Singh, Clerk, Office of G.M. Haryana Roadways, Faridabad Depot, submits that the property has already been transferred to the Delhi Metro Rail Corporation.

The Delhi Metro Rail Corporation is constructing a project of national importance which facilitates travelling of lakhs of people on a day-to-day basis. Such infrastructure projects are required to be given a priority over the small inconvenience of some residents of the colony.

As already stated by the learned counsel representing the State of Haryana, a 24 ft. wide alternative passage has already been provided.

In view of the aforesaid, no further order is required to be passed.

With all these observations, the present petition is disposed of.

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

September 22nd, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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