

2023:PHHC:140263

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

CR-1993-2021 (O&M)
Date of decision: 02.11.2023

Tej Ram

....Petitioner

Versus

Shamshu and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Shiv Kumar, Advocate for the petitioner

ANIL KSHETARPAL, J (Oral)

1. Haryana Urban Development Authority (later on renamed as Haryana Shehri Vikas Pradhikaran), after following the procedure prescribed under the Land Acquisition Act, 1894 acquired the land. After the acquisition was complete, the petitioner filed a civil suit for grant of decree of permanent injunction with the consequential relief of possession and mandatory injunction against Shamshu son of Hazi Nuruddin. The suit was decreed on 18.03.2013. The petitioner filed an application for execution of the decree under Order XXI Rule 32 of the Code of Civil Procedure 1908. The Executing Court dismissed the execution petition, after taking note of the fact that the said property being a public property has already been acquired by the Haryana Shehri Vikas Pradhikaran. The petitioner filed the first appeal, which was again dismissed by the First Appellate Court while issuing direction to the Haryana

Shehri Vikas Pradhikaran Nigam to take appropriate steps to save the public property from encroachers.

2. The correctness of the aforesaid order has been challenged in this revision petition.

3. Learned counsel representing the petitioner contends that the decree is required to be implemented even if the land was acquired. He submits that the decree is only against Shamshu, who is in unauthorized possession.

4. This Court has considered the submissions made by learned counsel representing the petitioner.

5. It is evident that the nature of the said property is a public property. The court, while passing the orders, cannot turn a blind eye to the nature of the property and perpetuate its encroachment. Now this fact has come to the notice of the court that a valid acquisition of the property has been done by the Haryana Shehri Vikas Pradhikaran, also the Executing Court has taken steps to save the same from the unauthorized encroachments. This Court is of the opinion that the petitioners claim holds no ground as the petitioner has no right, title or interest in the property. Hence, it will not be appropriate for the Court to deliver the possession of the property to the person, who has no right, title or interest in the same.

6. Hence, finding no merit in the revision petition, the same is hereby dismissed.

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

02.11.2023
rekha
Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No

(ANIL KSHETARPAL)
JUDGE