

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

(105)

CWP-6446-2021

Decided on: 14.03.2023

Mam Chand

....Petitioner(s)

Versus

State of Haryana and others

.... Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Adish Gupta, Advocate for the petitioner.

Mr. Ankur Mittal, Addl. AG, Haryana with
Mr. Saurabh Mago, AAG, Haryana.

G.S. Sandhawalia, J.

The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking directions restraining the respondents from constructing the road in the land bearing Rectangle No.22, Khewat No.5/6, Killa No.3/2/3/ (0-3), 4/3 (2-9) situated within the Revenue Estate of Village Dadasiya, District Faridabad. The claim of the present petition is that the land had never been acquired nor any compensation has been paid and, therefore, invocation of Article 300-A of the Constitution of India has also been sought.

2. As per the pleadings in the writ petition, the averments were that there was a construction of road on the right bank of river of Yamuna from Village Mahawatpur to Basantpur in District Faridabad and the construction was undertaken in June, 2019. The petitioner had approached the respondents on the ground that since the road is passing through his land which was in joint ownership and same has never been acquired for the construction of the road which was being done. A legal notice dated 12.09.2019 (Annexure P-3) had also been served to stop the construction and from interfering in the rights of the petitioner. The petitioner was also

informed vide letter dated 17.09.2019 (Annexure P-4) that the land stood already acquired for embankment (bund) and demarcation of the land already acquired be given, so that the construction of the road under CM Announcement may be done smoothly. The said letter was addressed also to the Tehsildar, Faridabad. The Executive Engineer, W.S. Division, Faridabad also wrote a letter to its counter part of the Provincial Division (PWD B & R), Sector 16-A. Faridabad on 06.11.2019 (Annexure P-6) that if there was any grievance of nearby landowners, the same may be solved by doing measurement by the Revenue Department at their own level.

3. Counsel for the petitioner was also informed vide reply dated 22.11.2019 (Annexure P-7) that the land belongs to the Provincial Division, PWD B&R Br., Faridabad and it could be demarcated if required in the presence of their concerned official/revenue people. Apparently, in spite of that a civil suit was also filed for prohibitory injunction, in which reply had been filed. The petitioner never disclosed the fact in the writ petition that the injunction application was dismissed on 16.10.2020, which order has now been placed on record by the State alongwith its reply as Annexure R-1.

4. A perusal of the said order would go on to show that the trial Court noticed that the acquisition was done way-back on 19.04.1982 and objections had not been filed and the plaintiff had come to the Court after a period of 38 years on the ground that the land had not been acquired. It was also noticed that there was an admission that their predecessor had taken the compensation of the acquired land and in such circumstances the injunction had been declined.

5. Apparently, an appeal was also filed against the said order, but thereafter the civil suit itself was withdrawn on 28.01.2021 before the

Daily Lok Adalat, which order has also been placed on record. The writ petition was filed thereafter two months later in March, 2021. Thus, apparently the claim regarding the fact the compensation had already been taken by the predecessors was never rebutted by filing any replication before the Trial Court and neither any averment has been made in the writ petition regarding the order of injunction being declined and the said factum that the compensation was taken. It is, thus, apparent that the petitioner has approached this Court with soiled hands.

6. The Apex Court in **Prestige Lights Ltd. vs. State Bank of India, 2007 (4) RCR (Civil) 46**, had said that the case is not to be decided on merits, once the litigant does not come to the Court with clean hands. In such circumstances, having elected for the remedy of the civil suit initially to get the necessary relief of injunction, the suit was cleverly withdrawn. Thereafter, this Court has been approached by not disclosing the complete facts that the land stood acquired way back in 1982 and compensation had been taken by the predecessor.

7. In such circumstances, we are of the considered opinion that there is no merit in the present writ petition and the same is dismissed on this account. We refrain ourselves from imposing costs, keeping in view the age of the petitioner who is around 80 years old.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

14.03.2023
Naveen

Whether speaking/reasoned :	✓Yes	No
Whether Reportable :	Yes	✓No