

CWP-12003-2021

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

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CWP-12003-2021

Date of Decision: 12.09.2023

Baljit Singh and Another

...Petitioners

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Rahul Sharma, Advocate for the petitioners
 Mr. Raman Sharma, Addl. A.G., Haryana
 Mr. Ashish Kapoor, Advocate for respondent No.3
 Mr. R.S. Longia, Advocate for respondent No.5

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners, through instant petition under Article 226 of the Constitution of India, are seeking setting aside of report dated 13.01.2021 (Annexure P-4) whereby Executive Engineer, PWD has issued NOC with respect to installation of retail outlet by respondent No.3/Indian Oil Corporation Limited ('IOCL').

2. The respondent No.3-IOCL applied for NOC to respondent No.4 in terms of Rule 144 of the Petroleum Rules, 2002 for the purpose of installation of petrol pump at Murabba No.9, Khasra No.19 (9//19) situated within the revenue estate of village Rapdi, H.B. No.13, Tehsil Radaur, District Yamunanagar. Respondent No.4 issued NOC on 15.07.2021. IOCL/Dealer, as per letter dated 13.01.2021 (Annexure P-4)

was required to construct and maintain service road at its own cost. The

service road can be constructed if road abutting main road is considered as public road. The petitioners are claiming that road abutting the metalled road is owned by them and without their consent, IOC/Dealer cannot construct service lane.

3. Learned counsel for the petitioners concedes that in terms of NOC issued by Deputy Commissioner, respondent Nos.3 and 5 are operating their petrol pump since October' 2021. The petitioners by their act and conduct may be estopped from claiming the ownership over the metalled road constructed by Public Works Department, however, petitioners have every right to claim ownership over land abutting metalled road. The petitioners have never extended, expressed or implied consent with respect to land abutting metalled road, thus, in the absence of acquisition by competent authority, the respondents cannot be permitted to construct service lane.

4. Learned counsel for the respondent-State pointing out reply submits that the petitioners by their act and conduct have surrendered their land where metalled road is constructed though there is no formal acquisition under the Land Acquisition Act.

5. On being asked, learned counsel for the respondent-State expressed his inability to show any notification or point out act and conduct of the petitioners which can be inferred as acquiescence with respect to land abutting the main road.

6. Learned counsel for respondent Nos.3 and 5 are also unable to point out any documentary evidence to indicate that petitioners have surrendered their land abutting the road.

7. The respondent Nos.3 and 5 are operating their petrol pump since October’ 2021 and it is their responsibility to construct service lane, if required by the State Government as per terms and conditions of NOC. The petitioners cannot be asked to abandon or surrender their piece of land. The State Government as well as respondent Nos.3 and 5 are free to get land from the petitioners in any way as permissible by law.

8. In wake of aforesaid facts and findings, the petition qua assailing report dated 13.01.2021 (Annexure P-4) stands dismissed, however, it is made clear that respondent Nos.3 and 5 would not construct service lane over land of the petitioners without compliance of the procedure prescribed by law.

(JAGMOHAN BANSAL)
JUDGE

12.09.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>