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

CWP-18357-2021

Date of decision: 04.10.2023

Pawan Kumar and another**.....Petitioners****Vs.****State of Haryana and Ors.****.....Respondents****CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

Present:- Mr. Deepak Singh Saini, Advocate
for the petitioners.

Mr. Pankaj Mulwani, D.A.G., Haryana.

Ms. Kushaldeep Kaur, Advocate for
Mr. Ankur Mittal, Advocate
for respondents No.2 and 3.

VINOD S. BHARDWAJ, J.

1. Prayer made in the present petition is for seeking directions to the respondents to provide passage to the land owned by the petitioners, situated adjoining to the Grain Market, set up by the Market Committee, Sadhaura.

2. Petitioners, who are owners of agricultural land measuring about 27 Kanals situated within the limits of Municipal Committee, Sadhaura have approached this Court seeking the above said relief by averring that some land of the petitioners was acquired for the setting up of Grain Market. A boundary wall was, thereafter, constructed by the

Committee and the ancillary infrastructure was also established for carrying out the business of selling grains in the said market.

3. Even though the land was acquired in the year 1972, however, the petitioners were using the passage to approach their land along the boundary line of the grain market and vegetable market comprising in Khasra Nos.146 and 201. The difficulty arose when the passage to their fields was closed by the respondent-Market Committee. The grievance was espoused before the respondents and finding no remedy, the present writ petition was filed.

4. Written Statement has been filed through Mr. Afsar, Secretary, Market Committee, Sadhaura. Paras 5 & 6 of the same reads thus:-

5. That it is respectfully submitted that as per revenue records there was a gair mumkin rasta from khasra no. 146 which further lead to khasra no. 201 further leading to the land of the petitioner before the construction of the Grain and vegetable Market. However after the construction of the above mentioned market the passage through the khasra number 201 was closed by construction of boundary walls as it was passing within the market, but an alternate passage was created to facilitate the petitioners and the other landowners to provide access to their lands, the passage on Khasra no. 146 was. extended by the Market Committee and a 16 ft wide passage was created by extending the passage on khasra No. 146 which previously was closed, now has been opened as to provide alternate route for all the adjoining landowners, this passage remains open all the time for public use. The map showing Rasta leading to the land in dispute before the construction of Grain and Vegetable market and passage after the creation of the market in year 1975 is annexed as R1 and R2.

6. That it is respectfully submitted since the acquisition in the year 1972, and up till the year 2019, neither petitioner nor anybody else ever claimed any passage through Khasra number 146 and 201 as the answering respondents never closed the passage through Khasra No. 146 further even extended the passage to provide alternate passage, that the petitioner has been provided with an alternate route as shown in (R2) as 'Alternate/Existing Rasta' going through Khasra no. 146 and it is further connected to the road marked as 'Kacha Rasta' 7 ft wide adjoining the nalla 3-6 Ft wide, which connects to the land of the petitioner as shown in the (Annexure R2), perusal of both of the maps shows that an alternate route has been provided by Market Committee to the landowners, it is pertinent to mention that all the landowners have been using this alternate rasta since time immemorial.

5. It is the specific stand of respondent-Market Committee that there was a *gair mumkin rasta* from Khasra No.146 which further lead to Khasra No.201 and to provide access to the land of the petitioners before the construction of the Grain and Vegetable Market. However, the passage to Khasra No.201 was closed by construction of the boundary wall and an alternate passage has now been created to facilitate the petitioners and the other land owners, which is nearly 16 ft wide.

6. The petitioner disputes the aforesaid claim of the Market Committee in the replication and contends that even though it is claimed by the respondents that an alternate passage has been provided, however, the same is not functional on site. He however, contends that he would be satisfied if the above passage is made available to them.

7. During the course of the arguments, the aforesaid contention of the petitioners is refuted by the counsel for the respondents and he shows

the photographs to show existence of the passage and also assures that if there is any impediment, the same shall be removed to provide free access.

8. Be that as it may, without commenting on the rival contentions, the present writ petition is disposed of directing the respondents to ensure that the alternative passage, as claimed to have been made available by them in Paras 5 & 6 of the written statement is made available, for access to the petitioners to their land.

9. Petition is accordingly disposed of.

04.10.2023
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No