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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-24265-2022 (O&M)
Date of decision:25.07.2023

SMT. PHOOLPATI AND ORS

...Petitioners

Versus

NATIONAL HIGHWAY AUTHORITY OF INDIA AND ORS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Tejas Bansal, Advocate for
Mr. Sanjiv Kumar Aggarwal, Advocate
for the petitioners.

Mr. R.S. Madan, Advocate
for respondents No.1 to 3.

SURESHWAR THAKUR, J. (ORAL)

CM-11435-CWP-2023

On the oral of the learned counsels for the parties, the main case is taken up for hearing today.

CWP-24265-2022

1. The writ petitioners claim the quashing of notification drawn on 21.06.2021 (Annexure P-2) by the Ministry of Road Transport and Highways whereby land measuring 2 Kanal 3.26 Marlas, thus owned by the present petitioners became acquired for the relevant public purpose. When the petition came up for hearing on 27.01.2023, on the asking of learned counsel for respondent No.1-NHAI time, was granted to file a status report with a clarification, whether without acquisition of the petitioners' lands, thus

construction activities become commenced thereons, at the instance of respondent No.1.

2. It appears that the above acceded request of the learned counsel for respondent No.1 became premised on the ground that, if acquisition of the petitioners' lands has been made, and, that too lawfully, thereby the writ petitioners, do not have any vested right to yet continue to protest against their lands being put to the relevant public purpose, qua which acquisition were made thus through validly drawn acquisition notifications.

3. For determining whether the above asked for clarification from the learned counsel for respondent No.1, has as such been complied with, it is deemed fit, to make a reference to the status report, which has been instituted by co-respondent No.1. The relevant paragraph of the status report occurs at paragraph No.5, contents whereof are extracted hereinafter.

“That it is brought to the kind notice of this Hon’ble Court that the land in question is acquired along the ROW of the project for catering the passage across adjoining fields and not for the private purpose as stated by the petitioners. It is relevant to mention here that the area of the land that is required for the road along its alignment is termed as Right of way (RoW). The RoW is the total land area acquired for the construction of the roadway. The width of RoW is designed in such a manner that it would be enough to accommodate all the elements of the roadway cross-section, any future widening of the road, and any public utility facilities that will be installed along with the roadway. The RoW is the area of the road acquired for carriages way, future extension along its alignment, other necessities, etc. The width of RoW depends on the category of Highway and width of the roadway and Road margin. In India, the Indian Roads Congress (IRC) is the Apex Body of Highway Engineers in the country. The design of highways in Indian follows guidelines established by the IRC which provides various factors to be taken into consideration. Thus, in the present case, the land in question is acquired for catering the passage across adjoining fields in due accordance with law.”

4. A reading of the said paragraph reveals, that the petition lands are acquired alongwith RoW, thus signification whereof is a right of way. It is also clarified therein, that the width of the right of way is designed in such a manner, that it would be sufficient, and, adequate to include therein all elements of roadway cross-section, to take care of any future widening of the road, and, also to ensure that thereby some public utility facilities are made available along the highway concerned. Therefore, upon bearing in mind the above extracted paragraph of the status report as furnished to the petition by co-respondent No.1, it appears, that the petitioners' land has been, as such acquired, but as a part of right of way, and thereby becomes an insegregable part of the relevant public purpose, for which the other adjoining thereto lands, thus became acquired at the instance of co-respondent No.1, rather for constructing a highway.

5. In consequence, and, since there is no material adduced on record by the learned counsel for the petitioners, but suggestive that the said averments are completely false, thereby it has to be concluded that, as a matter of fact the petitioners' lands has been subjected to lawful acquisition, and, thereby upon makings of lawful acquisition(s) of the petitioners' land, thereupon there is complete divestment of right, title or interest over the petition lands, of the landowners, rather there is complete vestment of the right, title or interest over the petition lands, thus in respondent No.1.

6. In consequence, there is no merit in the instant writ petition, and, the same is dismissed.

7. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

25.07.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE