

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

**RSA-3946-2018 (O&M)
Date of decision: 18.04.2023**

STATE OF HARYANA THROUGH PRINCIPAL SECRETARY, PWD B&R
DEPART. GOVT. OF HRY, CHD AND OTHERS ...Appellants
VS
ROHTASH AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. S.S.Mann, Additional A.G., Haryana.

Mr. S.K.Sharma, Advocate
Mr. Rajat Sharma, Advocate,
For respondents No.1 and 3.

Respondent No.4 in person with Mr. Manish Mehta, Advocate.

None for respondents 2 (a) to(c) and
5 (a) and 5 (b) despite service.

ARUN MONGA, J. (ORAL)

This is appellant-defendants' second appeal against the judgment of reversal. Learned trial Court vide its judgment and decree dated 31.07.2015 disposed of the suit filed by respondents herein by observing that respondent/ plaintiffs cannot claim the relief of possession along with consequential relief of permanent injunction restraining defendants from forcibly dispossessing plaintiffs from the land in question and from constructing the road, since the proceedings for acquiring the said area had already been initiated. It was ordered by learned trial Court that appropriate directions be issued to the State to adjudicate the compensation of plaintiffs as per rules within four months of the judgment.

2. Aggrieved, plaintiffs/respondents herein preferred first appeal, which was allowed by learned First Appellate Court vide its judgment and decree dated 31.03.2018 and accordingly, suit of respondents was decreed,

holding respondent-plaintiffs entitled for possession of the land illegally encroached upon by appellant-defendants, as per the dimensions and extent envisaged in the demarcation report Ex.P-2 read with the site plan Ex.P-3, if defendants fail to acquire the suit land in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 within a period of one year from the even date and to pay due compensation to plaintiffs, accordingly. Learned First Appellate Court further ordered that besides that, defendant would be liable to pay a compensation of Rs.50,000/- (in lump sum and in addition) to each of plaintiffs as damages for unauthorized user of the land for all the preceding period till date. Further defendants were restrained from encroaching upon any extra land of Khasra No.58//8/2 and 13/1, for all times to come.

3. Feeling aggrieved, defendant-appellants preferred the instant Regular Second Appeal before this Court.

4. Matter has remained pending in this Court for long time after passing order dated 30.11.2018 due to intervening pandemic period. Vide order dated 30.11.2018, an offer was made to the claimants or the compensation seekers, whose land was acquired in the following terms:

“It appears from the record that old road is in existence having width of 18 feet. The existing road is being widened by way of adding lands of the proprietors on both sides. During the course of arguments, Sh. Ved Prakash, SDEP3, Jhajjar, is present who states that the department is ready to pay compensation to the proprietors/owners of the land as per total width of the land in terms of new Act i.e., Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013’

Learned counsel for the caveator, on instructions from Jai Parkash, husband of Pushpa Devi and brother of Rohtash accepts the aforesaid settlement of Sh.Ved Prakash, SDE, P3, Jhajjar.

Let the proposal and acceptance be finalized by the adjourned date and final proposal be placed before this Court on 15.12.2018.”

5. *Apropos*, on resumed hearing today, respondent No.4, who is present in person, has no objection to the aforesaid offer as recorded in the order. So is the case with respondents No.1 and 3 whereas respondents No.2 and 5 are stated to have expired during pendency of proceedings. Notice was issued to their legal representatives and they have chosen not to appear. Therefore, they are proceeded *ex parte*. Deemingly their non-appearance is suggestive of the fact that they have no objection to the similar offer being accepted by them.

6. Accordingly, instant second appeal is disposed of in terms of the offer made by the State Government officials, as recorded in the order *ibid*. Further steps be taken within a period of 3 months for disbursing compensation along with interest @ 7% from the date the same is due and payable minus compensation already disbursed, if any.

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

(ARUN MONGA)
JUDGE

18.04.2023
vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No