

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-36223-2019(O&M)
Date of decision: 07.11.2023

Ms. Nidhie Ahuja and others
... Petitioners

Versus

Government of Haryana and others
... Respondents

CORAM: HON’BLE MR. JUSTICE ARUN PALLI
HON’BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Harsh Vardhan Goel, Advocate, and
Mr. Gaurav Rana, Advocate, for the petitioners.
Mr. Deepak Bhardwaj, DAG, Haryana.
Mr. Ankur Mittal, Advocate, and
Ms. Kushaldeep Kaur, Advocate, for respondent No.3.
Mr. Rohit Dheer, Advocate, for respondents No.4-GMDA.
Mr. Arvind Seth, Advocate, for respondents No.5 & 6.

ARUN PALLI, J. (Oral)

The petitioners herein have prayed for the following substantive relief:

“Writ petition under Article 226 of the Constitution of India for issuance of writ, order or direction in the nature of mandamus or any other writ, order or direction directing the respondent Nos.2, 3, 4, 5, 6 and 7 to start construction of 60 meters wide sector road and 12 meters service road in Sector 71, Gurugram connecting Chd Avenue 71 condominium in a time bound schedule by the Government of Haryana Agencies including the Haryana Urban Development Authority (HUA), Gurugram, Haryana.”

In compliance to the order dated 25.03.2022, a status report by way of an affidavit sworn by Sh. Sudhir Rajpal, Additional Chief Secretary-cum-Chief Executive Officer, Gurugram Metropolitan Development Authority (GMDA), Gurugram, dated 11.01.2023, has been filed. Paragraphs 3, 4 and 5 of the said affidavit read as thus:

“3. That the work of construction of master road dividing Sector 71/72, Gurugram i.e. 700 mtrs in length was taken up by GMDA and the work for construction of the road was allotted to the contractual agency M/s YD Builders & Hotels Pvt. Ltd., 209, 2nd Floor, DDA Building No.5, District Centre, JanakPuri, New Delhi-110058 vide letter of acceptance bearing Memo No.DID/2018/1846 dated 09.10.2018.

4. That as per the record of the GMDA, the allotted work was executed and completed on 20.11.2020 by the above-named contractual agency except 20 mtrs road in one carriageway due to existing of old structure/trees in road alignment of main carriageway and the same will be constructed as and when clear site will be provided by Haryana Shehri Vikas Pradhikaran (HSVP).

5. That in addition to the construction of master dividing road of Sector 71/72, Gurugram, the work of construction of 60 mtrs wide sector dividing road of Sector 71/73 & 72/72A, Gurugram was also taken up by GMDA and the same was allotted to the above-named contractual agency vide letter of acceptance bearing Memo No.DID/2018/657 dated 14.09.2018. However, out of total stretch of 3 kms approx., two patches of 700 mtrs and 300 mtrs could not be

completed as the possession of the same have yet not been handed over to GMDA by HSVP/DT&CP. Rest of the work for 2 kms stands already completed on 10.02.2021. The balance portion of these two patches would be completed as and when the land becomes available with GMDA.”

In reference to the averments set out in the above-extracted paragraphs of the affidavit (**ibid**), learned counsel for respondent No.4 submits that *ex facie*, the work as regards construction of master road dividing Sector 71/72, Gurugram, measuring 700 meters in length, was executed in November, 2020 except a stretch of 20 meters owing to existing old structure/trees in road alignment of the main carriageway. And even, the work regarding construction of 60 meters wide sector dividing road of Sectors 71/73 and 72/72-A, Gurugram, has since been executed, but out of total stretch of 3 kms, two patches of 700 meters and 300 meters could not be completed since HSVP/DT&CP failed to deliver possession of the said portions to GMDA.

To this, learned counsel for the petitioners, in reference to letter Annexure P-7, submits that the landowners, who are in occupation/possession of the two patches (**ibid**), have already written to the Zonal Administrator, HUDA, Gurgaon that they have no objection if their land, falling in the alignment of sector dividing road of Sector 72A, 72 & 48, is acquired, subject to payment of fair compensation. Thus, he submits, there was/is hardly any impediment in the way of the competent authority to acquire the said two patches/portions and carry out the necessary development.

In response, learned Additional Advocate General, Haryana, and learned counsel for respondents No.5 & 6, submit that as the matter is pending since 09.12.2019, and with efflux of time the position at ground might have undergone a considerable change, let this petition be disposed of, at this stage, to enable the respondent-authorities to examine/work in tandem and reach a final decision in this regard. It is urged that the concerns/grievance of the petitioners, as sought to be raised in the petition, shall be duly considered and necessary measures/decision in this regard shall be taken. Further, it is submitted that the petitioners shall also be at liberty to supplement their claim by placing on record further material/representation(s), which shall be taken cognizance of by the authorities.

In the wake of the above, learned counsel for the petitioners submits that let this petition be disposed of in terms of the stand set out in the affidavit (**ibid**) as also the statements made by learned State counsel and learned counsel for respondents No.5 & 6. However, he submits that the authorities be directed to take a final decision in the matter within a specified time to which, learned counsel for the respondent(s) submits that the necessary orders, as indicated above, shall be passed within a period of three (3) months from today. And, if necessary, the petitioners shall also be afforded an opportunity of hearing before any such orders are passed.

The petition is accordingly disposed of in terms of the statements made by learned counsel for the parties. This Court is sanguine that the authorities shall take a reasoned decision or pass necessary orders assigning reasons in support thereof.

Needless to assert that this order shall not constitute any expression of opinion on the merits of the case of either party, for, as indicated above, the competent authority shall examine the claim of the petitioners, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

07.11.2023
Rajan

Whether speaking / reasoned: YES/NO
Whether Reportable: YES/NO