

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-20621-CWP-2023 in/and
CWP-6797-2023(O&M)
Date of decision: 12.03.2024

Virender Singh and another
... Petitioners
Versus
State of Haryana and another
... Respondents

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

Present: Mr. Sandeep Sharma, Advocate,
for the petitioners.
Mr. Ankur Mittal, Addl. AG, Haryana, and
Mr. Karan Jindal, Asstt. AG, Haryana.
Mr. Ankur Mittal, Advocate, and
Ms. Kushaldeep Kaur, Mr. Shivam Garg, and
Mr. Siddhanth Arora Advocates, for respondent No.2.

ARUN PALLI, J. (Oral)

The petitioners have prayed for the following substantive relief:

“Civil Writ Petition under Articles 226/227 of the Constitution of India praying for issuance of a Writ in the Nature of Mandamus of Direction to the Respondents to provide the 40 feet wide passage to the petitioners, so that they can go to their 11.5 Acre agriculture land for cultivation situated in village Harsaru Distt. Gurugram (Sector-36A Residential sector as per the Development plan 2031). Respondents have acquired the Revenue Rasta vide Award No.6 dated 27.01.2006 (Annexure P-3) for the development of industries, vide which the petitioners were connected with their 11.5 Acre Agriculture land (unacquired land) and further action of the respondents to sale the plots in

the green belt (shown in the Master Plan 2031 Annexure P-11) may kindly be set aside in the interest of justice.”

Learned counsel for the petitioners submits that petitioners owned a land measuring 15 acres, situated in the revenue estate of Village Harsaru, District Gurugram. And, pursuant to the notification dated 29.01.2003, issued under Section 4 of the Land Acquisition Act, 1894, out of the said land, an area measuring 3.5 acres was acquired by the State Government for setting up an Industrial Complex. He submits that in essence, the grievance of the petitioners is: the remaining land (measuring 11.5 acres), owned by the petitioners, is left with no passage. And resultantly, they are deprived of any access thereto. So much so, even the revenue rasta, which was being used by the petitioners for ingress and egress, has also been acquired. Not just that, in reference to the site plan (P-18, at page 133), he submits that even the remaining land of the petitioners is virtually locked from all sides as qua the area adjacent thereto, a licence has been issued by the Department of Town and Country Planning, Haryana, to M/s Delta Propcon Pvt. Ltd., for development of a Residential Colony, Sector 36-A, Gurugram. Further, the report dated September 6, 2021, submitted by the Divisional Town Planner, HSIIDC, Gurugram to the Chief Town Planner, HSIIDC, Panchkula, in this regard, crystalizes the situation the petitioners are faced with:

“On the above cited subject and letter under reference it is submitted that the fact and information on the said matter sent earlier to the head office vide this office letter dated 21.12.2020 and 16.04.2021 are same and may be considered.

Further a detailed report regarding present approach to site of the applicant is as under:-

(1) The part of applicants land in village Harsaru bearing Khasra No.123//7, 8, 9 and 10 stands acquired vide Award No.6, dated 27.01.2006 by HSIIDC. Further the adjoining land of the applicant bearing Khasra No.123//11, 12 to 18, 23 to 25 and 131//4, 5 is unacquired land. This unacquired land pocket has been land-locked by the acquisition boundary wall of HSIIDC towards North. However, this unacquired land pocket has also been surrounded by CLU land on East-West South directions respectively (Annexure A). Now, the said unacquired land has been sandwiched without any direct access/rasta to the site.

(2) Moreover, it is also informed that as per revenue sazra/revenue record, the entire land of the applicant (including acquired and unacquired land) had approach from revenue rasta at a distance of approx. 6 Acres.

(3) In addition to the above it also informed that the land under question adjoins the Green Belt V3 (a) towards East of the unacquired land. The site has been duly marked on the Final Development Plan of GMUC 2031 & sazra plan. However, a copy of the same are enclosed as Annexure 'A' (Sazra plan) and Annexure 'B' (FDP-GMUC, 2031) respectively.

The above facts and information are submitted for taking further necessary action in the subject matter.”

Accordingly, he submits that despite the specific report submitted by the Divisional Town Planner, Gurugram, the authorities have been insensitive qua the concerns/grievances of the petitioners. And, as a result, they continue to suffer owing to inaction on their part.

As opposed to this, learned Additional Advocate General, Haryana submits that claim of the petitioners is seriously disputed in the written statement filed on behalf of the respondents. So much so, it is urged that even the revenue rasta that was in existence to enable the petitioners to access their land, has not been acquired. Therefore, he submits that the grievance of the petitioners is totally misconceived.

Be that as it may, he submits that for conclusive and effective determination of the rights and obligations of the parties, it would be expedient if the petition is disposed of, at this stage, to enable the competent authority (Managing Director, HSIIDC, Panchkula) to examine the matter in the right earnest and take a decision in this regard. Further, he submits that before any such orders are passed, the petitioners as also other stakeholders would be afforded an opportunity of hearing.

Learned counsel for the petitioners is agreeable to the course suggested by learned Additional Advocate General, Haryana. And submits let the petition be disposed of in terms of his statement. However, it is submitted that the matter being time sensitive, the competent authority be directed to take a decision within a specified time.

To this, learned Additional Advocate General submits that petitioners may appear before the Managing Director, HSIIDC, Panchkula on 18.03.2024 (Monday) @ 11:00 AM. Whereafter, it would proceed to pass the necessary order, in accordance with law, within a period of 4 weeks from today. And the same shall also be communicated to the petitioners forthwith.

Further, he fairly submits that till the date any formal order is passed by the competent authority, the interim order dated May 25, 2023 shall

continue to operate.

In the wake of the position sketched out above, and in terms of the statements made by learned counsel for the parties, the petition stands disposed of.

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 concerns/grievances of the petitioners, strictly in accordance with law.

(Arun Palli)
Judge

(Vikram Aggarwal)
Judge

12.03.2024
Rajan

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