

2024:PHHC:126851



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

237

CWP-18079-2022

Date of Decision: 24.09.2024

AASC DEVELOPERS PVT. LTD.

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Rakesh Kumar, Advocate and
Mr. Amandeep Singh Jattana, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab
for respondents No.1 to 4.

Mr. Manbir Singh, Advocate for
Mr. Tushar Sharma, Advocate
for respondent No.5.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present petition is for directing respondent No.2 to decide the representations dated 14.07.2022 and 20.07.2022, whereby the officers of respondents No.3 and 4 had dredged a temporary channel on 12/13 July, 2022 for draining out the water from across the road on the Banur-Landran-Kharar Road from petitioner's land as contained in Khasra NO.135-142, Village and Tehsil, Banur, District S.A.S. Nagar as the jamabandi for the year 2016-17.

A short reply by way of affidavit of Er. Rajat Grover, Executive Engineer, Drainage-cum-Mining Division, District S.A.S. Nagar, has been filed on behalf of respondents No.3 and 4. The paragraphs No.3 and 4 of the same are reproduced as under:



“3. That the brief facts of the case are that Respondent no. 4 on the orders of DC/Mohali had reached at the spot on the 12/07/2022 as the road/Highway itself and the right side of the area of Banur-Landran-Kharar road got flooded due to heavy rainfall, also because of this the traffic got affected for few days. The said NH205A road is constructed by NHAI and several culverts/cross drainage structures as shown in site plan (Annexure R-2) are provided at regular intervals for passage of sheet flow of rain water from one side of road to another. On reaching the spot, DC/Mohali along with official of Banur/Municipal Committee, SDM/Mohali, Tehsildaar/Mohali, Naib Tehsildaar/Banur, PWD B&R, NHAI and then Respondent no. 4 inspected the site and it was inferred that the petitioner has illegally blocked the passage of sheet flow of rain water by creating obstructions in culvert with sand. The petitioner has also blocked some portion of roadside drain which is under the purview of national highway authority of India. Some it was also inferred that the said area of petitioner and the concerned issue belongs to MC/Banur. Further, it is stated that MC/Banur i.e. Respondent No. 5 has issued a letter to concerned owner of land on dated 15.07.2022 (Annexure R-3) to remove the obstructions from the land so that the rain water could flow smoothly downstream as sheet flow. Moreover, the Respondent No.3 was not present on the spot during the inspection

4. That the petitioner had blocked the passage of water as alleged above and considering difficulty faced by general public and smooth running of highway, considering public work and as per orders of Hon'ble DC SAS Nagar hence, temporary dredging of drain (relief cut) for draining out the accumulated rainwater on the right side of Banur-Landran-Kharar road to the left side with outfall in nearby drain on 12.07.2022. The drain was dredged to

**CWP-18079-2022****-3-**

provide a temporary relief to allow the passage of flooded water. The land of the petitioner was also leveled back later and no drain is currently present in the land of the petitioner and no new drain is proposed to be built by drainage department in the concerned area as of today as per official revenue records.”

Even though the aforesaid reply had been filed on 29.08.2023, however, no replication/rejoinder, controverting the averments contained in the reply, has been filed by the petitioner despite a lapse of more than a year.

It has been specifically averred in the said reply that the aforesaid temporary dredging had been carried out to drain out the accumulated rain water on the right side of the Banur-Landran-Kharar Road to the left side with the outfall in the nearby drain on 12.07.2022 and that after the temporary relief to the extent of allowing the passage of flooded water, the land of the petitioner was also levelled back later and no drain is currently present in the land of the petitioner.

Learned counsel for the petitioner also does not dispute the above factual aspect.

In view of the specific stand taken by the respondent-State in its abovementioned reply, the present petition has become infructuous.

Disposed of as having been rendered infructuous.

SEPTEMBER 24, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

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