



CWP No. 12221 of 2022

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 12221 of 2022

Date of decision : January 23, 2025

Shamsher Singh and others

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. A.S.Virdi, Advocate, for the petitioners
Mr. Rajesh Gaur, Addl. AG, Haryana

KULDEEP TIWARI, J.

1. Through the instant petition prayer is made for issuance of mandamus upon the respondents to consider the representations of the petitioners dated 18.06.2021 (Annexure P/1), and dated 22.08.2021 (Annexure P/2), and also issuance of direction to construct the road in pursuance of the first survey, as conducted in the year 2019, which is reflected in the site plan (Annexure P/4).

2. The grievance which propelled the petitioner to file the instant petition, is the act of respondents to construct a metalled road in pursuance of new survey, which according to the petitioners, would bifurcate their land, and moreover they will not be able to cross the road to access their fields, and houses.

3. Learned counsel for the petitioners submits that the petitioners

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will have to travel to a longer distance, to reach their other part of the land. He also submits that there exists a *kucha rasta*, which is being used by the petitioners since the last 50 years, and the same should have not been taken away by constructing the *pucca* road. He in addition, while referring to the site plan (*supra*), points out towards the houses of the petitioners, and submits that the *kutcha rasta* is in fact the only route available to the petitioners, and is also only way to connect the residences with their fields, and in case, the *pucca* road is constructed, the petitioners in order to reach to their own land, have to cross the proposed metalled road twice.

4. The submissions as made by the learned counsel for the petitioners are vociferously opposed by the learned State counsel. He submits that land has been purchased under the Policy for “Purchase of Land Voluntarily offered to Government”, for development projects, and furthermore, many land owners, have consented to sell their land for the proposed Cheeka Bye Pass road. Therefore, the petitioners are now raising unnecessary grievance regarding construction of road in question. He further specifically denied that no survey was carried out by the respondents for Bye Pass at Cheeka for Kaithal-Patiala road, as reflected in yellow colour, as mentioned by the petitioners in Annexure P/4. He further submits that rather the true and real proposed site plan/layout is Annexure R/1, which is undisputedly different from the site plan placed on record by the petitioners. He in addition submits that in pursuance of the site plan under the policy mentioned above, the respondents have purchased the land

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from the land owners, therefore, merely on the asking of few persons, the alignment of the road cannot be changed. He over and above submits that no restrictions would be imposed upon the people who have their land adjacent to the proposed Bye Pass. The said Bye Pass is not an Express way/Corridor, where the entry or exit is restricted. In fact, the petitioners will have access to their respective fields at every step from the proposed Bye Pass. Therefore, the claim of the petitioners that the construction of proposed Bye Pass will prove to be a hurdle for them to get the access to their fields is purely imaginary, and having no substance, requiring this Court to grant, asked for mandamus.

5. This Court has considered the rival submissions made by the learned counsel for the parties concerned, and has perused the entire records, and is of the considered view that the instant petition is bereft of any merit, therefore, the asked for mandamus cannot be granted for the hereinafter extracted reasons:-

- (i) First of all, the main submission of the learned counsel for the petitioners hinges upon Annexure P/4, (site plan), which, according to the petitioners is the first survey report conducted by the respondents. This was clearly refuted by the respondents in unambiguous terms. Rather the survey report of the land is annexed with the reply as Annexure R/1. This view also finds support from the fact that the land was purchased according to Annexure R/1, under the



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Policy for Purchase of Land Voluntarily offered to Government for development projects;

- (ii) The next submission of the petitioners, demanding right to way to their land, is also misconceived notion, as it is clear stand of the respondents that the road which is under construction, is not a Express way/Corridor creating any restrictions for crossing the road to any individual, whose land is abutting to this road. Rather it is the specific stand of the respondents that any one who is travelling on the road will have access to every inch of their land abutting to it;
- (iii) It goes without saying that the individual interest must be given away, when the larger interest of public purpose is involved. Public purpose includes a purpose involving general interest of community as opposed to the interest of an individual directly or indirectly involved. For the above view, this Court finds support from the ratio laid down by the Hon'ble Supreme Court in “***State of Haryana vs. Vinod Oil and General Mills, 2014 (15) SCC 410.*** The relevant extract is reproduced as under:-

“8. Permission for change of land use and developing the area as an industry, in our view, has no relevance while considering the validity of acquisition. If we are to hold that once permission is granted for change of land use for developing the area as an industry and



thereafter State cannot acquire it, then a situation may arise that for all time to come, the particular area cannot be acquired which may not be in the larger public interest. We are also unable to agree with the view taken by the High Court that the action of the respondents/State in approving setting up of a factory and then acquiring the same is unreasonable. It is not as if the lands where factories are set up are immune from any acquisition. The only effect of permission for such change in land use and approval for construction and developing the area as an industry can be recognized as valid only to the extent as to confer right upon the land owners to recover the appropriate compensation.

- *9. The land was acquired for development and utilization of the same for residential and commercial purposes in Sector 9 & 11, Hissar. So far as the purpose of acquisition of land is concerned, the High Court observed that “the acquisition is not for essential public services such as development of infrastructure, railways, metro or the purpose related thereto, irrigation, water supply, drainage, road, communication etc.....”. High Court was not correct in observing that only development of infrastructure, railways or irrigation, water supply, drainage, road etc. are primary public purposes. Public purpose includes a purpose involving general interest of community as opposed to the interest of an individual directly or indirectly involved. Individual interest must give way to public interest as far as public*



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purpose in respect of acquisition of land is concerned.”

(iv) Finally it is informed to this Court that the road is being constructed after conducting technical survey, considering all the parameters, feasibilities , therefore, only on asking of few persons, the alignment cannot be allowed to be changed specifically when it is not causing any hindrance to the petitioners, to have access to their respective lands, and houses.

6. In sequel to the aforesaid, the instant petition is **dismissed**.

January 23, 2025
'tiwana'

(KULDEEP TIWARI)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>