



In the High Court of Punjab and Haryana, at Chandigarh

Execution Second Appeal No. 36 of 2022 (O&M)

Date of Decision: 21.04.2025

Naresh Kumar and Another

... Appellant(s)

Versus

The State of Haryana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Jasminder Singh Thind, Advocate
for the appellant(s).

Ms. Vibha Tewari, Assistant Advocate General,
Haryana, for the respondents.

Anil Kshetarpal, J.

CM-7141-C-2022

1. For the reasons stated in the application, the same is allowed and delay of 217 days in refiling the appeal is condoned.

ESA-36-2022

2. The appellants before this Court are the owners of the property on which a road has been constructed without acquiring the same in accordance with law. Appellants' suit filed for the grant of decree of permanent injunction directing the defendants to initiate proceedings for acquisition of the land, was decreed on 30.04.2012 which was upheld in appeal on 21.09.2016. In the execution petition, the State offered to pay ₹5,92,500/- to the decree holders which was not accepted by the plaintiffs. The Executing Court held that the decree holders have no choice but to

accept the amount and the decree stands satisfied. The appeal filed by the decree holders was also dismissed.

3. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book.

4. It is evident that the Trial Court, on 30.04.2012, decreed the plaintiffs' suit with the following directions:-

“15. Consequent to the above discussion and findings on issue above, present suit has been partly decreed with no order as to costs. A decree of mandatory injunction to the effect that the defendants are directed to initiate the proceedings for acquiring the part of the suit land over which pucca road is constructed as mentioned in the demarcation report Ex.P2 is hereby passed in favour of the plaintiffs and against the defendants. Remaining relief claimed by the plaintiffs is hereby dismissed with no order as to costs. Decree sheet be drawn accordingly and file be consigned to records, after due compliance.”

5. The appeal filed by the State of Haryana was dismissed on 21.09.2016. Hence, the State is required to comply with the decree by initiating the proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “the 2013 Act”). The Executing Court and the First Appellate Court have erred by observing that the decree holders can be compelled to receive ₹5,92,500/- without acquisition of the land, in accordance with law. Hence, the orders passed by the Executing Court and

the First Appellate Court are set aside. The execution petition shall stand revived.

6. The learned State counsel has been impressed upon to pay the amount of ₹5,92,500/- as an interim compensation to the appellant subject to acquisition of the land in accordance with the 2013 Act. She undertakes that the State of Haryana will initiate the proceedings for acquiring the land within the next six months as per the provisions of the 2013 Act.

7. The present appeal is allowed. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

April 21, 2025

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No