

High Court of Punjab and Haryana

Bench: Justice Sureshwar Thakur and Justice Kuldeep Tiwari

Date of Decision: 20 October 2023

CWP No. 22777 of 2023

Amarjit Gandhi and another**Petitioners**

Versus

Union of India and others**Respondents**

Sections, Acts, Rules, and Article: None

Subject: Land Acquisition for National Highway Project - Challenge to the notification - land would be used for horticultural purposes instead of highway construction - Petition dismissed.

Headnotes:

Land Acquisition – Quashing of notification and award – Challenge to the notification and award pertaining to land acquisition for the National Highway project – Petitioners argued that the land would be used for horticultural purposes instead of highway construction – Court finds that the land’s utilization for floricultural and horticultural activities is in line with the holistic purpose of mitigating carbon emissions along national highways – Petition dismissed. [Para 1-6]

Referred Cases: None.

Representing Advocates:

Mr. Divanshu Jain and Mr. Prateek Sodhi, Advocates for the petitioners.

Mr. R.S. Madaan, Advocate for respondent No. 2-NHAI.

Mr. Maninder Singh, DAG, Punjab.

SURESHWAR THAKUR , J. (ORAL)

1. The writ petitioners seek the quashing of notification bearing No. S.O.2788(E) dated 12.7.2021 (Anneuxre P-1), and, Notification No. 3159(E) dated

11.7.2022 (Annexure P-2), besides also seek quashing of the award bearing No. LR/07 of 2022 dated 15.11.2022 (Annexure P-3).

2. Moreover, the writ petitioners also seek, thus quashing of the Memorandum of Agreement dated 21.5.2021 (Annexure P-4), whereby the contesting respondent concerned, has entered into an arrangement with the Horticulture Department of the State of Punjab, thus for creating a nursery on the acquired land, so as to ensure that the nursed there plants are planted at the relevant section of the National Highway.
3. The learned counsel for the petitioner has very vociferously argued, that prior to the notifications (supra), whereby the petition land was subjected to acquisition, the agreement or Memorandum of Agreement (Annexure P-4) became arrived inter se the National Highway Authority of India with the Horticulture Department of the State of Punjab, and, a perusal of the relevant covenant No. 5, as carried therein, which becomes extracted hereinafter, makes it abundantly clear, that the purpose of acquisition becomes defeated, inasmuch as, the petition land would not be utilized for the construction of a Highway, rather it would be facilitating the Horticulture Department of the State of Punjab to nurse plants on the petition land(s).

“NHAI shall provide minimum 1.4 hectare land as replacement for completion of Center of Excellence for Floriculture by Department of Horticulture, at the adjacent site of the existing land bearing khasra number 54 (2 bigha 18 Vishwah), 62 (6 bigha 5 Vishwah), 63 (3 bigha 4 Vishwah), 64 (9 bigha 2 Vishwah) (copy attached) lying in village Rajgarh, Tehsil Payal, District Ludhiana as early as possible from the date of signing of MoA for the purpose of Centre of Excellence for Floriculture activities as well as to provide nursery plants to NHAI.”

4. The above raised contention, before this Court, by the learned counsel for the petitioner arises from a complete misunderstanding of a project of national importance, which is under execution at the instance of the National Highway Authority of India. The reason for drawing the above inference, ensues from the factum, that the National Highways, which are to be constructed by the National Highway Authority of India, rather do not only require construction of roads, as such, but also require maintenance of certain sections thereof, thus for the purposes of floricultural, as well as for afforestation activities being carried thereons. The above utilization(s) of the part of the national highways rather for afforestation activities, besides for floricultural activities, would

naturally ensure, that the carbon sinks are thereby provided at the national highways, so that, thereby there is an effort on the part of the National Highway Authority of India, to ensure the mitigation of deleterious effects of carbon emissions, from the vehicles, which ply on the national highways.

5. Since, the above is a holistic purpose but beneficial to the users of the national highways, therefore, if the petition land facilitates the above floricultural, and, horticulture activities to be carried rather on the relevant sections of the highway, thus the above extracted clause/covenant in Annexure P-4, which is but facilitative for maintenance operations, besides for preserving the environment at large sections of the national highways. 6. In view of the above, this Court finds no merit in the instant petition, and, is constrained to dismiss it.
7. Accordingly, the instant petition is hereby dismissed.
8. No order as to costs.
9. The pending application(s), if any, is/are also disposed of.

© All Rights Reserved @ LAWYER E
NEWS

*Disclaimer: Always compare with the
original copy of judgment from the
official website.