

(2021) 06 SHI CK 0175

In the High Court Of Himachal Pradesh

Case No : Review Petition No. 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42 Of 2021

Devender Singh And Others

APPELLANT

Vs

Executive Engineer, HP State Electricity Board And Others

RESPONDENT

Date of Decision : 30-06-2021

Acts Referred:

Citation : (2021) 06 SHI CK 0175

Hon'ble Judges : L. Narayana Swamy, CJ;Anoop Chitkara, J

Bench : Division Bench

Advocate : Ajay Sharma, Jeetendra Pal Thakur, Tara Singh Chauhan, Ashok Sharma, Adarsh K. Sharma, Ritta Goswami, Sudhir Thakur, Karun Negi, K.D.Shreedhar, Shreya Chauhan

Final Decision : Dismissed

Judgement

L. Narayana Swamy, CJ

1. The portion of the judgment which is sought to be reviewed has been extracted by the petitioners in their petition, which reads as follows:

11. The case of the petitioner(s) as stated in the petition and also the submissions is that the property as referred to above has been

acquired by the respondents and the compensation has been awarded to the petitioner(s). The acquired portion has been demolished by the

respondents, however, the petitioner(s) is residing in the portion which is not acquired for which they have got ownership as they are owner

of the property. If that being the case, an attempt has been made by the respondents to interfere in the possession of the property.

12. Here the question would be, as rightly stated in para No.8, that some portion of the property has been acquired and compensation has

been paid. If that is the case, the remaining extent of the property in case

petitioner(s) is in possession of the property, no such description of the property has been furnished, i.e., the extent of the acquired land and its ownership. To substantiate the same, petitioner(s) could have produced some revenue record, but no such revenue record is available before this Court. It is stated by the respondent-NHAI that the petitioner(s) has been paid the compensation which has been received by him and the structure which was acquired is not completely demolished by the respondents and the acquired portion has been demolished and the remaining is yet to be demolished. In the meanwhile, the petitioners have entered into the un-demolished portion and claimed that this remaining portion has not been acquired, cannot be accepted when there is no cogent and reliable material placed before this Court. It is always open for the petitioner(s) to approach the competent authority with all requisite and cogent material to prove ownership in respect of the property in question. Needless to say that once the compensation stands awarded for the entire structure for which Notification has been made, it vests with the respondent-NHAI as they become the owner from that day onwards. If anybody enters into the possession is only unauthorized trespasser into the property in question.

13. It is the submission of the learned counsel for the petitioners that before disconnecting the water and electricity, no notice was issued to the petitioner(s), cannot be accepted in view of the fact that the 1st respondent has filed the reply in which it is specifically stated that notice has been issued to the petitioner(s) not to remain in the portion of land which was acquired. After receipt of such notice, instead of approaching the 1st respondent, they have preferred these petitions and the submission of learned counsel for the petitioners that they have not been issued notice, cannot be accepted.

14. For all the reasons discussed hereinabove, we do not find any merit in these petitions and the same are accordingly dismissed. Pending application(s), if any, shall also stand disposed of.

2. The petitioners have stated in their petition that the judgment deserves to be reviewed as the petitioners have collected the fresh evidentiary material/documents that unambiguously prove that respondent No.5 (NHAI) had

acquired only a portion of the total land belonging to the petitioners

and that the petitioners continue to remain in lawful possession of the remaining land which was not acquired by respondent.â??

3. Learned Senior Counsel, who represents the petitioners in all matters submits that now the respondents have threatened to demolish the structure,

which has neither been acquired nor compensation has been paid. To substantiate his submission, learned Senior Counsel relied upon letter dated

8.6.2021 (Annexure P-5), which is addressed by Competent Authority-cum-Land Acquisition Officer Solan, District Solan, H.P. to Sh. Devender

(present petitioner) and submits that the acquired portion of land which is in khasra No. 937/1 measuring 70 Sq. Meters is acquired for National

Highway out of main khasra No. 937 measuring 261 Sq. Meters in Mohal Basal Patti Kahter and the remaining portion of land i.e. khasra No. 937/2

measuring 191 sq. meters has not been acquired. He also relied upon first Award No. 31/1 dated 15.12.2016 and submitted that the compensation has

only been paid for portion of the structure and not as a whole. The portion of the structure for which compensation has been paid it could be

demolished by the respondent, but they attempted to demolish the remaining portion of the structure for which compensation has not been paid.

Learned Senior Counsel further submits that this is an error apparent on the face of the record and this material has not been placed on record, hence

the judgment dated 9.3.2021 passed by this Court is required to be reviewed.

4. In support of his submission, Mr. K. D. Shreedhar, learned Senior Counsel has relied upon certain judgments passed by Honâ??ble Supreme Court

in case titled as Sow Chandra Kante and another Vs. Sheikh Babib, (1975) 1 SCC 674(Para-1), Lily Thomas and others Vs. Union of India and

others, (2000) 6 SCC 224(Para-52 and 56), Harinagar Sugar Mills Ltd. and another Vs. State of Bihar and others (2006) 1 SCC 509(Para11 and 12),

Haridas Vs. Usha Rani Banik (Smt.) and others, (2006) 4 SCC 78(Para-13) State of West Bengal and others Vs. Kamal Sengupta and another,

(2008) 8 SCC 612(Para 21-23), T Thimmaiah (Dead) By LRs Vs. Venkatchala Raju (Dead) by LRs (2008) 11 SCC 107 (Para-2), S. Bagrathi Ammal

Vs. Palani Roman Catholic Mission (2009) 10 SCC 464(Para 12 and 26) and Inderchand Jain (Dead) Vs. Palani Roman Catholic Mission (2009) 14

SCC 663(Para10 and 11).

5. The sum and substance of the case of the petitioner is that the acquired structure in khasra No. 937/1 only that portion has been acquired and

compensation has been paid and remaining portion situated in khasra No. 937/2 has not been acquired. In order to clarify, we put a question to learned

Senior Counsel for the petitioners and the counsel, who assisted him that which portion and to what extent khasra No. 937/2 has been acquired, for

which no cogent answer has been given. When a compensation has been paid to the structure which falls on khasra No. 937/1 and 937/2 and it is

legally presumable and presumed that the compensation has been paid to a structure, no matter whether it is khasra No. 937/1 and 937/2.

6. Under these circumstances, we hold that an unsuccessful attempt has been made by learned Senior Counsel for the petitioners to review the

judgment. For entertaining the review petition, what is required to show by the review petitioners, whether this Court has committed any error and

whether the same is apparent on the face of the record. In view of the said provision, we hold that all errors are not the ground for reviewing the

judgments. The error must be apparent on the face of the record. If it is proved, the party would get a relief that is only required to be done after

examining the material placed before this Court.

7. Consequently, after hearing the learned counsel for the parties, we do not find any error apparent on the face of the record. Accordingly, all review

petitions are dismissed. Pending miscellaneous applications, if any, also stand disposed of.

8. Interim orders dated 24.6.2021 and 29.6.2021 are vacated forthwith.