
(2019) 11 SHI CK 0133
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 1526 Of 2017

Dinesh Kumar

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 29-11-2019

Acts Referred:

Citation : (2019) 11 SHI CK 0133

Hon'ble Judges : Sureshwar Thakur, J

Bench : Single Bench

Advocate : H.K. Paul, V.B. Verma, Hemant Vaid, Arvind Sharma, Vikrant Chandel, Y.S. Thakur, K.D. Shreedhar, Shreya Chauhan

Final Decision : Dismissed

Judgement

Sureshwar Thakur, J

1. Through the instant petition, the writ petitioner seeks rendition, of, the hereinafter extracted direction(s), upon, the respondents:

- i) Appropriate writ, order and/or direction and writ in the nature of Mandamus may kindly be issued to the respondents to acquire the remaining land of the petitioner and/ or pay compensation to the petitioner enabling him to reclaim the left out belonging to him by raising suitable construction for profitable use of his land;
- ii) The action of the respondents to deny the relief to the petitioner, may kindly be quashed and set aside in the interest of justice;
- iii) The petitioner may kindly be held entitled to the compensation of Rs. 70,18,483/- as assessed by the Executive Engineer as per Annexure P-11 alongwith interest thereon in the interest of justice;
- iv) The respondents may kindly be directed to produce the entire record for the perusal of this Hon'ble Court and after perusal thereof the petitioner may also kindly be granted the relief as may be warranted by the facts and circumstances

of this case in the interest of justice.

2. The petitioners' land, became acquired, for the requisite public purpose, and, through an award, embodied in Ext. P-4, hence compensation, for, the acquired land(s), of, the petitioner, became determined, vis-à-vis, him. Annexure P-4 became rendered, on 31.10.2013. However, thereafter hence the available records before this Court, rather omit to make any disclosures, vis-à-vis, the petitioner, making agitations, before the authorities concerned, vis-à-vis, the insufficiencies of, determination, of, compensation amount, therethrough, vis-à-vis, him, and, appertaining, to his acquired land(s). Consequently, the award made, on, 31.10.2013, acquires conclusivity. A reading of Annexure P-4, does not, unfold, vis-à-vis, the petitioner making any espousal, therein, vis-à-vis, in sequel, to, the, construction activity, becoming carried, by the Executing Agency concerned, after, the apt lands becoming acquired, for, the relevant purpose, hence his un-acquired hereat writ land, becoming encumbered, with damages, (i) and, conspicuously, arising, from un-scientific excavation, and, construction activity, becoming engaged into hence by the Executing Agency concerned. The effects, of, in contemporaneity, vis-à-vis, the, making, of, a conclusive apposite award, on 31.10.2013, and, also with, the, requisite, afore agitation remaining thereat un-recoursed, by the writ petitioner, does, prima-facie, estops the petitioner, to rear any espousal, before this Court, (i) and, appertaining to his unacquired land, becoming hence amenable, for directions becoming meted, upon the respondents, rather for enabling the writ petitioner, to make, the most profitable, and, suitable user, vis-à-vis, the hereat, un-acquired land, qua theirs hence raising retaining walls, around or skirting the afore un-acquired land, of, the petitioner. Conspicuously, also, with, the, petitioner hiding, the, date, of, commencement, of apt construction activity, and, rather wherefrom, the afore espousal, may, become validly rested, hence also works as an apposite impediment, with this Court.

3. Be that as it may, through Annexure P-7, the petitioner made a representation, to the Sub Divisional Magistrate, Sundernagar, District Mandi, hence ventilating therein rather grievance(s), vis-à-vis, the, initiation, of, construction activity, upon the apt acquired land(s), hence, by the Executing Agency concerned, begetting the ill-sequel, vis-à-vis, his un-acquired lands, becoming un-suitable, for any purpose. However, with, in Annexure P-7, the date whereon, the afore construction activity, became carried, by the Executing Agency concerned, remaining un-echoed, rather carries, all the afore inevitable ill-effects, becoming visited hence, upon, the petitioners' espousal, in paragraph-4, of, CMP bearing No. 13370 of 2019, hence the petitioner, rather ascribes therein, qua the, afore imminent damages, becoming encumbered, vis-à-vis, his un-acquired land, the propelling thereof, reason inasmuch, as theirs, becoming sparked by heavy rains. Even though, in the remaining part, of, paragraph-4, of, CMP No. 13370 of 2019, the, writ petitioner scribes the, existence, of, a causal connection, interse heavy rains, vis-à-vis, the un-scientific vertical excavation, of, the acquired lands, for, construction of road(s) thereon (i)

yet unless in prompt sequel, to, the executing agency concerned, making excavation, and, diggings, of, the writ petitioners' acquired land, he resorted rather appropriate mechanism, whereas his omitting to do so, and, whereupon alone, this Court, may be constrained to conclude, that, prima-facie, there exists a causal connection, interse the purported un-scientific and vertical excavation, of, the acquired land, and, the imminent therefrom hence dangers ensuing, to, his un-acquired land. However, for lack, of, availments, by the writ-petitioner, vis-à-vis, all available to him, hence appropriate recourseable mechanisms, and also, with the date, of, commencement, of the afore construction activity, hence by the Executing Agency concerned, rather becoming camouflaged, hence the afore(s), interse causal connection rather becomes snapped. Even otherwise, the afore, is, a disputed, and, also a heavily contentious fact, and, is un-amenable, for determination, in, writ proceedings.

4. Moreover, the writ petitioner, seeks pronouncement, of, a pre-emptory direction, upon, the respondents, to, expend public money, for ensuring, his, un-acquired land, becoming utilized, by him, for, his personal use, or it becoming utilized for his rearing profits therefrom, after his establishing therein, hence commercial establishment/enterprises. However, the afore relief, is, un-grantable, to, the writ petitioner, as the afore relief, falls outside the domain, of, law. Moreover when the, only domain, wherewithin, the afore relief, is, espousable, and, also, is, grantable, to the petitioner, was, during the course, of, the proceedings, becoming drawn hence by the Land Acquisition Collection, and, in his, making thereat, the, afore claims before the Land Acquisition Collector concerned.

However, the petitioner has omitted, to make the afore addresses, before, the and Acquisition Collector concerned, and thereupon, he becomes stopped to rear, the, afore espousals, before the Court.

5. In aftermath, for the afore omission, and, also for the aforestated reasons, the purported causal, connection, interse, the, un-scientific vertical excavation, and, hence damage, becoming encumbered, upon the hereat un-acquired land, is, a disputed question of fact, and, rather is un-amenable, for determination through the extant writ petition, (i) and, also constrains this Court, to, refrain from making, the, afore espoused pronouncement(s), against, the respondents. Furthermore, since the un-acquired land, of, the petitioner, is, within his possession, and also when it remains un-utilized, by the respondent, whereas, only upon its becoming possessed, and, also becoming utilized, for, the relevant purpose, by, the authorities concerned, may constrain this Court, to, make a direction, upon, the respondent to launch proceedings, for, acquiring the writ land, reiteratedly, when for want of the respondent, holding possession, of, the writ land, and also, for want of it becoming utilized, by, the respondent concerned, thereupon this Court, is, constrained, not to make any direction, upon, the respondents, to, launch proceedings, for acquiring, the writ land.

6. Consequently, there is no merit in the petition, and, the same is dismissed.

However, liberty reserved to the petitioner to avail all the alternate remedies, available under law. Also, the pending application(s), if any, are also disposed of.