
(2018) 01 SHI CK 0031
In the High Court Of Himachal Pradesh
Case No : 173 of 2018

Nitin Chauhan

APPELLANT

Vs

State of H.P. and Ors.

RESPONDENT

Date of Decision : 16-01-2018

Acts Referred:

[3998](#) Constitution of India, [3998-226](#) Article 226 -
Power of High Courts to Issue certain writs

Citation : (2018) 01 SHI CK 0031

Hon'ble Judges : Sandeep Sharma

Bench : Single Bench

Advocate : Seema K. Guleria, Rajat Chauhan, Rajinder Thakur

Final Decision : Disposed off

Judgement

1. By way of instant petition filed under Article 226 of the Constitution of India, petitioner has prayed for following main reliefs:-

(i) That the respondents may very kindly be directed to restrain from interfering and raising any kind of construction over the land comprised in

khasra No. 96, 97, 99 and 102, situated in Mouza/Mohal Andheri, Tehsil Nahan, District Sirmaour, H.P.

(ii) That in alternative, the respondents may kindly be directed to follow a due process of law for acquiring the land and pay compensation in

accordance with law prior to raising any type of construction over the land as mentioned in para (i).

2. Ms. Seema K. Guleria, Advocate, representing the petitioner, states that respondents No. 2 and 5 are illegally and forcibly dispossessing the

petitioner from his own land without resorting to the procedure as laid down under the Land Acquisition Act (in short the Act). She further states

that as per original DPR prepared by respondent Nos. 2 and 5, road was to be constructed through khasra No. 138/89/17 and 138/89/15 owned and possessed by respondents No. 7 to 15, along with the petitioner but now solely with a view to benefit respondents No.7 and 15, respondents are hell-bent in constructing the road through khasra Nos. 96, 97, 99 and 102, situate at Mouza/Mohal Andheri, Tehsil Nahan, District Sirmaour, H.P., that too without resorting to the provisions /procedure as contained under the Act.

3. Mr. Rajinder Thakur, Advocate, representing respondents No. 2 and 5, under instructions from Mr. Daya Ram, Senior Assistant HPSEB, states that no road shall be constructed through land in question, without having obtained demarcation from the revenue department. Learned counsel further states that land as described herein above, if required for construction of road, shall be acquired in accordance with law and thereafter, same shall be used for construction of road.

4. Consequently, in view of the aforesaid statement having been made by the learned counsel for respondents No. 2 and 5, learned counsel for the petitioner seeks permission to withdraw the present petition at this stage, with liberty to file afresh, if need so arises subsequently on the same cause of action. Accordingly, the petition is disposed of with a direction that no road shall be constructed by respondents No. 2 and 5 through land comprised in khasra Nos. 96, 97, 99 and 102, situate in Mouza/Moha Andheri, Tehsil Nahan, District Sirmaour, H.P., without having acquired the same under the Act, if not already acquired. Needless to say, if land in question is required for construction of road, necessary steps in that regard, shall be taken by respondents No. 2 and 5 in accordance the law and till then, no road shall be constructed through the land owned and possessed by the petitioner. Pending applications, if any, also stand disposed of.