



2024 PLRonline 459764
= (2024-2)214 PLR 448 (SN)

PUNJAB AND HARYANA HIGH COURT
Before: Justice Sukhvinder Kaur.

RAJBIR SINGH - Petitioner

Versus

DISTRICT REVENUE OFFICER & others –
 Respondents
 CR-2695 of 2024 (O&M)

**Civil Procedure Code, 1908 (V of 1908),
 Order 39 Rule 1 & 2 - Injunction is an equitable
 relief - "He who seeks equity, must do equity" - In
 the facts and circumstances of the case, it appears
 that the plaintiff has not come to the Court with
 clean hands and as such, no prima facie case is
 made out in his favour.**

*Mr. Akshay Kumar Jindal, Advocate, Mr. Vrishank
 Suri, Advocate and Mr. Abhishek Shukla, Advocate
 for the petitioner. Mr. RKS Brar, Additional
 Advocate General, Haryana, for respondents No.1 &
 2. Mr. J.P. Sharma, Advocate for respondent No.3.*

Cases referred:

1. , 2020(1) AIR Bom.R645,, Bhupendra Singh v. The
 Competent Authority for National Highway No.6 and
 the Deputy Collector (Gen.), Land Acquisition (Gen.)
 Dhule Taluka and Dist. Dhule

*Mr. Akshay Kumar Jindal, Advocate, Mr. Vrishank Suri,
 Advocate and Mr. Abhishek Shukla, Advocate for the
 petitioner. Mr. RKS Brar, Additional Advocate General,
 Haryana, for respondents No.1 & 2. Mr. J.P. Sharma,
 Advocate for respondent No.3.*

Sukhvinder Kaur, J. – Instant revision petition has
 been filed for setting aside the order dated 26.02.2024
 passed by the Additional District Judge, Narnaul
 (Annexure P-8), vide which the appeal filed by the
 petitioner against the order dated 05.01.2024
 (Annexure P-7) passed by the Civil Judge, Jr. Division,
 Narnaul was dismissed.

2. The relevant facts as per case of the plaintiff are,
 he had right, title and interest as a co-sharer in the
 land situated within the revenue estate of village

Maksuspur, Tehsil Narnaul, District Mahendergarh
 (hereinafter to be referred to as 'the suit property') as
 per jamabandis for the years 2015-16, 2018-19, 2020-
 21 excluding that portion of land which had now been
 acquired by the State. It has been alleged that the
 Government of India through National Highway
 Authority acquired the land from village Maksuspur
 and other villagers for upgrading and widening/four
 laning National Highway No.11 which included some
 portion of land of the plaintiff as well as other co-
 owners comprised in khewat No.42, khatauni Nos.47-
 50, total 11, measuring 50 kanals 2 marlas vide Award
 No.30 dated 30.11.2018 and other supplementary
 awards. The compensation for the
 constructions/structures existing in the acquired
 property was assessed separately on the basis of Spot
 Inspection Report of Survey Authority and the owners
 as per their shares and who had built the same
 exclusively, received the award. Award regarding
 structure, borewell, tubewell and other construction
 was passed separately. It has been alleged that as
 plaintiff had constructed the shops/boundary wall on
 rectangle/killa No.3//24, so he received compensation
 for an amount of Rs.19,00,568/- after the survey and
 after removal of the objections. The plaintiff during
 lifetime of his father had built 5 shops and boundary
 wall in the property situated at village Maksuspur with
 his own exclusive funds and those 5 shops were rented
 out to the Sales Tax Department and he used to take
 the rent. It was further alleged that one Satbir Singh in
 order to harass the plaintiff, filed a complaint and the
 District Revenue Officer after proper inspection,
 released the amount of Rs.19,00,568/- in favour of the
 plaintiff. It was further alleged that petition under
 Section 3(H) of the National Highway Act, 1956
 (hereinafter to be referred to as 'the 1956 Act') is also
 pending in the Court of Additional District Judge,
 Narnaul. It was alleged that the defendants wrongly
 issued notice bearing No.5383/LAC dated 10.03.2023
 to the plaintiff asking to deposit a sum of
 Rs.19,00,568/- in their account or recovery would be
 made through attachment. It was also alleged that
 such notice is totally wrong, against law and fact, null
 and void and not binding upon the plaintiff.
 Defendants have no right to auction the property of
 the plaintiff after attachment. Plaintiff asked the
 defendants not to take any steps to recover the
 amount on the basis of notice No.5383/LAC dated

10.03.2023 but in vain. Hence, the present suit as well as application under Order 39 Rules 1 & 2 CPC read with Section 151 CPC filed by the plaintiff with Section 151 CPC seeking to restrain the dismissed by the trial Court vide order dated defendants from making out the process of attachment 05.01.2024 (Annexure P-7). Aggrieved against the said and auction of the property of the plaintiff under the order, plaintiff preferred appeal before the Appellate garb of impugned notice and from any kind of recovery Court, which was also dismissed vide order dated till final decision of the present suit on merits, was filed. 26.02.2024. Hence, the revision petitioner/plaintiff has

3. Upon notice, defendant No.1 filed written knocked the doors of this Court by way of filing the statement by taking the preliminary objections present revision petition.

regarding maintainability, locus standi, cause of action, 7. Learned counsel for the petitioner has non-joinder and mis-joinder etc. On merits, all the contended that by spending his own funds, the material averments were denied and it was averred petitioner had constructed the shops/boundary wall in that owner of the land and structure while receiving the acquired land and no other person has any concern compensation had given the undertaking through regarding the same. Only after due verification and affidavit to answering defendant No.1 that if in future exercise of powers under Section 3H (4) of the 1956 any compensation of the land and structure was found Act, the District Revenue Officer-cum-Competent to have been disbursed to the wrong owner, then he Authority vide order dated 04.08.2021 directed the would deposit the entire compensation in the bank release of amount regarding structures to the tune of account of defendant No.1 and in case not so Rs.19,00,568/- in favour of the petitioner. Though deposited then defendant No.1 has the legal right to reference under Section 3H (4) of the 1956 Act was recover the wrongly disbursed amount from the owner pending before the Principal Civil Court of original of the land and structure. It was also alleged that on jurisdiction, yet the stay order i.e. deposit of amount in the complaint, inquiry was conducted to determine the shape of FDR was ordered to be made in ownership and possession over the acquired property September, 2021, whereas the order for release of the and legal course has been adopted by defendant No.1 amount was passed by the District Revenue Officer in in issuing notice to the plaintiff. August, 2021. Therefore, amount was released in

4. The same written statement was adopted by favour of the petitioner prior to the stay order passed defendant No.2. by the Reference Court. He has urged that competent

5. Defendant No.3 filed separate written authority under Section 3H (2) is well within its rights statement while alleging that the compensation was to determine the persons, who in its opinion are awarded to the co-owners as per their shares for the entitled to receive the amount payable and merely acquired land. But the compensation should have been because a dispute has been raised against the awarded to the owners, who had built houses, apportionment of compensation, the same would not boundary walls, shops etc. It was alleged that plaintiff preclude the competent authority from passing the in collusion with surveyor got entered his name in the order under Section 3H of the 1956 Act. He has further column of ownership and the surveyor did not inquire urged that the impugned notice dated 10.03.2023 has anything in this regard from defendant No.3 and other been issued only because respondent No.3 – Satbir co-owners. It has been averred that the plaintiff was Singh was habitual to file false complaints and he has not the sole co-owner of the property of their father no concern with the award passed in favour of the but defendant No.3 was entitled to receive the petitioner. Satbir Singh filed complaint before CM compensation upto 1/4th share. The plaintiff was not window and also filed private complaint for having any concern with the structure made upon registration of FIR against the petitioner and under the khasra Nos.17 and 18. It was denied that the plaintiff pressure of these complaints, the DRO ordered had built structure of the shops etc. by spending his recovery of the amount vide impugned notice dated own funds. Dismissal of the suit filed by the plaintiff as 10.03.2023. He has argued that the impugned notice well as stay application for grant of temporary dated 10.03.2023 would amount to reviewing the injunction was prayed for. order dated 04.08.2021, which is not permissible in law and in this context, he has relied upon a decision of the

Bombay High Court in *Bhupendra Singh v. The reporting that sum of Rs.19,00,568/- vide cheque Competent Authority for National Highway No.6 and No.691225 dated 13.08.2021 was wrongly issued qua the Deputy Collector (Gen.), land Acquisition (Gen.) compensation amount in favour of Rajbir Singh in case Dhule Taluka and Dist. Dhule and others 2020(1) AIR No.1/SPL/DRO decided on 04.08.2021. The Additional Bom.R645. He has submitted that the orders passed by District Collector, Narnaul also made the report vide the Courts below are not sustainable in the eyes of law inquiry No.2023/1029 dated 21.06.2023 to District and are liable to be set aside.* Collector, Narnaul in this regard, wherein it was

8. On the other hand, learned State counsel as mentioned that the case under Section 3H had already well as learned counsel for respondent No.3 have been sent to the Additional District and Sessions Judge, contended that the orders passed by the Courts below Narnaul and even thereafter the compensation had are legal and justified and do not call for any been disbursed. So only after conducting of the inquiry, interference. the District Revenue Officer-cum-LAC had issued notice

9. I have heard learned counsel for the parties at bearing No.5383/LAC dated 10.03.2023 to the plaintiff length and have perused the pleadings on record. regarding recovery of Rs.19,00,568/-, alleged to have

10. In the instant case, this fact is not disputed been received by the plaintiff/petitioner wrongly and that the competent authority Land illegally, while CIS No.LAC 38 of 2020 titled as Acquisition/defendant No.1 had acquired the suit 'Dharampal deceased through his L.Rs. etc. v. Union of property and other land at village Maksurpur for India etc. was sub-judiced before the Additional District widening/four laning etc. of National Highway No.11. Judge, Narnaul. As in the impugned order dated Regarding acquiring of the said property situated at 05.01.2024 of the trial Court, it has been specifically Maksuspur Award No.30 dated 30.11.2018 and other mentioned that plaintiff – Rajbir Singh had also supplementary awards were passed and award of the appeared in the said petition, so it is to be inferred that, building/structure was passed separately. The amount he was well aware about pendency of the said case. of Rs.19,00,568/- was disbursed after assessing the Moreover, letter/Notice No.5383/LAC dated value of construction raised on land bearing 10.03.2023 had been issued only in due course of law rectangle/killla No.3//24 in favour of the plaintiff. and as such, a legal recourse for the recovery has been

11. Brother of the plaintiff Satbir Singh filed adopted by the defendants. objections before the competent authority while **13.** The relief of injunction is an equitable relief. It alleging that the said construction had not been raised is well known maxim of law that "he who seeks equity, exclusively by the plaintiff, rather the construction had must do equity'. But in the facts and circumstances of been raised by their father. On this objection, inquiry the present case, it appears that the plaintiff has not was forwarded to the Court of Additional District Judge, come to the Court with clean hands and as such, no Narnaul vide letter No.7995 dated 08.12.2020 for prima facie case is made out in his favour.

adjudication, along with cheque of the said award **14.** The case law cited by learned counsel for the amount. Said inquiry is pending adjudication before petitioner is of no help to him being based on the said Court. But when the matter regarding distinguishable facts as in the instant case the entitlement of co-owners of the said amount was aforesaid notice has been sent only after conducting of subjudiced before the competent authority, the due inquiry.

amount of Rs.19,00,568/- was released in favour of the **15.** Thus, there being no illegality or infirmity in plaintiff through another cheque by District Revenue the impugned orders, no interference therewith is Officer. called for while exercising the revisional jurisdiction.

12. Defendant No.3 – Satbir Singh, the brother of The present revision petition being bereft of any merits the plaintiff moved a complaint through CM window, stands dismissed.

Narnaul with regard to the wrong disbursement of **16.** Pending application(s), if any, shall also stand Rs.19,00,568/- in favour of the plaintiff – Rajbir Singh disposed of.

by the DRO. The SDO (Civil), Narnaul referred the matter for inquiry to DC, Mahendergarh, while