

CM No.10552 of 2024 in
CWP No.8730 of 2022 (O&M)

National Highway Authority of India and Anr vs. State of Punjab and Ors.

Present: Mr. Chetan Mittal, Sr. Advocate with
Mr. R.S. Madan, Advocate,
Mr. Mayank Aggarwal, Advocate and
Mr. Mahender Joshi, Advocate,
for the applicant(s)/petitioners/NHAI.

Mr. Maninder Singh, Sr. DAG, Punjab.

1. In compliance of order dated 02.12.2024, a short affidavit dated 09.12.2024 of Sh. K.A.P Sinha, Chief Secretary to Government of Punjab has been filed in Court today, detailing that as per Annexure I, 100% encumbrance free possession has been delivered, whereas, as per Annexure II, encumbrances free possession of 4 kms remains to be delivered, rather for the reason that in respect of a patch measuring 200 meters, a writ petition bearing CWP No.5904 of 2023 is subjudice, whereas, encumbrances free possession of 3.8 kms is still to be delivered owing to ongoing arbitration cases.

2. It is further stated that as on 29.11.2024 in respect of Annexure III, encumbrances free delivery of possession of only 36.085 kms rather is remaining to be so delivered to the NHAI, thus owing to pendency of Arbitration cases and also owing to pending Notifications under Section 3A and 3D of the National Highways Act, 1956. It is further stated that with respect to project mentioned at Serial number 2 of Annexure III i.e Beas-Baba Bakala-Batala-Dera Baba Nanak (PKG-1), qua a stretch measuring 2 kms, thus encumbrance free possession of some stretches has been delivered as on 29.11.2024 to the NHAI. However, encumbrance free possession of certain patches falling within the said supra road remains undelivered to the NHAI. Now, the reason for non-delivery of encumbrance free possession of supra patch to NHAI becomes delineated therein to emerge from a historical Gurudwara Sahib of Taruna Dal rather existing thereover and for resolving the supra issue, the NHAI officials are regularly confabulating with the Gurudwara management.

3. In respect of another patch of 700 mm of village Chung and Udhonangal which is overlapping with the Amritsar-Una project, though the funds for the release of compensation to be paid to the land owners has been released by NHAI on 11.11.2024 whereafters, the possession of the stretch of land falling within the above villages would be delivered simultaneously along with

disbursement of compensation to the land owners. However, in this very project in district Gurdaspur, encumbrance free delivery of possession of only 2 kms land is remaining to be so given to the NHAI, thus on account of the on going civil litigation between the land owners besides for the further reason that there are missing khasra numbers in the award of the NHAI.

4. In respect of project mentioned at Sr.No.3 i.e Amritsar-Ghuman-Tanda-Una NH-5030 (Package-I) of Annexure III, which falls in the Amritsar District, the encumbrance free delivery of possession of 8.8 kms as on 29.11.2024 is remaining to be so made, thus on account of delay on the part of NHAI to sanction the apposite limit. The NHAI sanctioned the funds only on 16.09.2024. Since subsequently the compensation amount has been released to the land owners in respect of land falling in Sub Divisional Magistrate, Amritsar-I, but it is stated that only in respect of five villages out of nine villages thus falling within the jurisdictional domain of the SDM concerned, thus on 22.11.2024, compensation of land has been released. Therefore, compensation amount has remained unreleased to four villages falling within the said stretch. Similarly, in the stretch falling under Sub Divisional Magistrate Baba Bakala Sahib, encumbrances free delivery of possession of 1.1 kms has been handed over to NHAI, whereas, the apposite possession qua rest of the area would be given after disbursement of compensation.

5. The table annexed with the reply further depicts that vis-a-vis the Project mentioned at Sr.No.3 in district Gurdaspur, encumbrances free delivery of possession of 2.8 kms is remaining to be so given, thus for the reason that NHAI payment account of CALA Batala, has been seized by the trial Court for the last two years, whereby the apposite Project Director NHAI, Amritsar, has stated that the payment would be made by Bhoomi Rashi Portal, but the said portal is inoperative, thus for this reason, qua the apposite possession could not be delivered to NHAI. Further, Notification under Section 3A of around 1.2 kms would be issued by the NHAI qua missing khasra number.

6. It is further stated that regarding Project mentioned at Sr.No.4 i.e Hoshiarpur-Una (inc Hoshiarpur bypass) in district Hoshiarpur, the encumbrances free delivery of possession of 1.2 kms is remaining to be so given, on account of pending demolition of structure whereafter encumbrance free possession would be delivered to the NHAI. In district Tarn Taran, encumbrances free possession of 19.16 kms could not be delivered on account of on-going litigation.

7. It is informed that in respect of Project mentioned at Sr.No.5 i.e DAK Expressway (Phase-I, Spur-II), the encumbrance free possession of the entire area has been delivered to NHAI, whereas, in respect of project mentioned in Annexure IV, the encumbrances free possession of 73.38 kms of land is remaining to be delivered to NHAI for the reason as mentioned hereinafter.

8. As per Annexure IV, with reference to the project mentioned at Sr.No.1 i.e Malout & Dabwali Bypass, in district Bathinda, 100% encumbrance free delivery of possession has been given, whereas, in district Muktsar Sahib, 0.25 kms possession is remaining to be so delivered, thus owing to the ongoing litigation, wherein, status quo has been ordered to be maintained.

9. It is further detailed that with regard to the project mentioned at Sr.No.2 in Annexure IV i.e 4 Laning of Abohar to Fazilka section of NH-07 in district Fazilka, encumbrance free possession of 1.77 kms is remaining to be delivered as over certain piece of land, structures/houses of private owners are built thereovers. Likewise, in the project mentioned at Sr.No.3 in Annexure IV i.e Amritsar bypass (Pack III), encumbrance free delivery of possession of a stretch of 2.16 kms is remaining to be delivered, owing to ongoing revenue dispute, whereas, regarding project mentioned at Sr.No.4 in Annexure IV i.e Amritsar Airport junction Ramdas (Pack IV), encumbrance free possession of the entire stretch has been delivered as informed by Project Director, NHAI.

10. In relation to the project mentioned at Sr.No.5 i.e Moga Bajkhana section of NH-1058 in district Moga, encumbrance free possession of 0.25 kms is remaining to be delivered, as structure award has not been pronounced qua cement factory and feed factory and the issue of sewerage treatment plant Village Bagha Purana is also pending to be resolved by the Project Director, NHAI. In district Faridkot, the possession of the entire stretch has been delivered to NHAI.

11. About the project mentioned at Sr.No.6 of Annexure IV i.e Beas-Baba Bakala-Batala, Dera Baba Nanak (Pack-II) in district Gurdaspur, encumbrance free possession of 4.40 kms is remaining to be delivered owing to civil litigation and missing structure award and errors in revenue record.

12. Reply further details that regarding project mentioned at Sr.No.7 i.e 6 lane Amritsar Bathinda (Pack II) in district Moga, encumbrance free possession of 3 kms could not be delivered as status quo order has been passed by Hon'ble Supreme Court qua some portion of project and further owing to the approvals being pending with the NHAI, qua the passing of award of the missing khasra

number. In district Bathinda, encumbrances free possession of the entire apposite stretch has been delivered, whereas, in respect of project mentioned at Sr.No.8 of Annexure IV, in district Bathinda & Barnala, and project mentioned at Sr.No.9 i.e 6 lane Amritsar-Bathinda NH-754A (Pck III), apposite encumbrance free possession in entire stretch has been delivered to NHAI.

13. With reference to project mentioned at Sr.No.10 i.e 6 lane Amritsar-Bathinda in district Kapurthala, encumbrance free possession of 1.31 kms is remaining to be delivered owing to a dispute between the land owners and local citizens, whereas, in district Jalandhar, the encumbrance free possession of 5 kms also could not be delivered, on account of ongoing litigation before the Arbitration Tribunal. In district Moga, encumbrance free possession of 0.3 kms is remaining to be delivered for the reason that the missing khasra number award, is still pending for approval before the NHAI, whereas, in respect of project mentioned at Sr.No.11 i.e 4/6 lane Ludhiana-Rupnagar (pck-I), encumbrance free possession 1.4 kms is remaining to be delivered.

14. Regarding project mentioned at Sr.No.12 i.e Southern Ludhiana Bypass in Annexure IV, encumbrance free possession of 3.55 kms is remaining to be delivered since certain stretches of land are under illegal possession of cultivators who are claiming to be owners of the land while in respect of project mentioned at Sr.No.13 i.e Jalandhar Bypass in Annexure IV, encumbrance free possession of 5 kms is also remaining to be delivered owing to ongoing arbitration cases filed by NHAI. In district Kapurthala, encumbrance free possession of the entire stretch is stated to have been delivered.

15. With regard to project mentioned at Sr.No.14 i.e Amritsar-Una (Pck 2) Ghoman Tanda, in district Gurdaspur, encumbrance free possession of 3.15 kms has not been delivered so far, owing to the disputes qua rates of compensation. In district Hoshiarpur, encumbrance free possession of 2.8 kms is remaining to be delivered as the award is under challenge by NHAI.

16. It is further apprised that in respect of project mentioned at Sr.No.15 i.e Ludhiana Bathinda (pack II) in district Barnala, encumbrance free possession of the entire stretch has been delivered, while in district Ludhiana, encumbrance free possession of stretch 3.9 kms thus could not be delivered owing to certain disputes raised by the farmers union and land owners.

17. With respect to project mentioned at Sr.No.16 i.e Ludhiana Roopnagar Pkg-II, in district Ludhiana, encumbrance free possession of 35.14

could not be delivered on account of disputes qua compensation amount and owing to missing khasra number award for 18 villages.

18. NHAI is engaged in the construction of pilot projects in the State. It is apparently clear from the contents of the reply submitted hereinabove that on account of non-delivery of encumbrance free possession to NHAI, the authority is not being able to expeditiously execute the pilot projects, owing to aforesaid reasons.

19. The prompt delivery of encumbrance free possession of the acquired lands but to the NHAI, naturally facilitates the quickest and rapid execution of pilot projects of national importance. On the other hand, tardy and slothful encumbrance free delivery of physical possession of the acquired lands by the State agencies, to the NHAI, naturally impedes the execution of projects of national importance.

20. Therefore, having taken note of the hurdles faced by the NHAI, relating to expeditious delivery of encumbrance free possession of land besides relating to the creations of a viable mechanism, rather for streamlining besides activating the officers concerned, who are assigned the functions of 'competent authority', thus following directions are issued:

(i) In respect of the uncompleted/pending projects, list whereof shall be supplied within a week by the counsel for the NHAI, to the respondent concerned, thus the Chief Secretary to the Government of Punjab, shall within a week from receiving the said list, shall thereby direct the competent authority, to draw action in terms of the relevant statutory provisions (supra), and, subsequently the Chief Secretary to the Government concerned, shall thereafter, ensure that within a period of two months thereafter, rather encumbrance free possession of the enlisted projects, is delivered to the NHAI, thus for enabling it to expeditiously complete the pilot projects of national importance.

(ii) If in respect of any stretch of land as detailed supra, thus encumbrance free delivery of possession, thus remains undelivered for all the above stated reasons thereupons, the respective Authorities shall ensure encumbrance free delivery of possession thereof, besides in respect of the ongoing litigations rather sub-judice before various courts and also in respect of sub-judice arbitration cases thereons, the NHAI Authority, shall ensure that the respective Hon'ble Judicial Forums, do become expeditiously accessed, so that the pending sub-judice litigations become forthwith terminated. Even the NHAI shall make the quickest endeavour to ensure

that orders of status quo as become passed by the learned courts are efforded to become vacated through applications in the said regard becoming filed before the Hon'ble courts concerned.

(iii) Moreover, certain promptest actions vis-a-vis erasings certain above impediments but are warranted even from the NHAI, therefore the apposite actions be promptly taken.

(iv) The Collectors of the District(s) concerned shall review the ongoing National Highways Authority of India projects, stressing the need for rapid land acquisition and structural award being passed besides other related issues including the award distribution and expedited project timelines and resolve issues proactively.

(v) The Director General of Police of the State of Punjab, is to ensure that, as and when police assistance is asked for, by the NHAI for delivery to it, of encumbrance free possession, from the land-losers concerned, especially when prior thereto, compensation in terms of the relevant provision (supra) becomes determined, besides becomes disbursed, to therebys make the promptest compliances thereto.

(v) In case there is breach of the said request as made by the competent authority, to the Police Commissioner or to the Collector concerned, thereby it is open to the NHAI, to move the Chief Secretary to the Governments concerned, so that, the latter thus draws appropriate action in accordance with law, against the derelicting officer/official concerned.

List on 31.01.2025 for compliance affidavits qua all supra being filed by all concerned.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

10.12.2024
manoj