

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Execution Application No. 29/2023
In
Original Application No. 7/2020
(IA No 760/2023, IA No 759/2023)

Vinay Kumar Gupta	Versus	Applicant
Haryana State Pollution Control Board & Ors.		Respondent

Date of hearing: 24.01.2024

**CORAM: HON’BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON’BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant:	Mr. S.A. Zaidi, Ms. Mansi Chahal, Mr. Kapil Sagar & Mr. Ankit Chaudhary, Advs. for Applicant in E.A 29/2023
Respondent:	Mr. Rahul Khurana, Adv. with Mr. Sidharth Dahiya, HCS, Estate Officer, Faridabad, HSVP, Mr. Naresh Verma, J.E, HSVP, Mr. Vijay Adhana, J.E, HSVP & Mr. Ajit Singh, Reader to SDM Mr. Surender Vats, in Person (R - 6)

ORDER

1. This execution application has been filed seeking execution of the order dated 02.09.2020 passed in OA No. 07/2020.
2. In the OA, Applicant had raised the grievance that the park in Sector-8, Faridabad was illegally encroached and the authorities were not taking action. The Tribunal considering the grievance and also the report of the Deputy Commissioner, Faridabad had disposed of the OA on 02.09.2020 by passing the following order:

“xxx.....xxx.....xxx

3. *Accordingly, the Deputy Commissioner, Faridabad has filed a report on 27.02.2020 to the effect that orders for removing encroachment has been passed. Further remedial action will also be taken.*
- In view of above, no further order is required except that necessary remedial action be taken as per law.*
- The application is disposed of.”*

3. In the execution application, Applicant has raised the plea that unauthorized and illegal encroachment on park at Sector-8, Faridabad has not been removed, though the Applicant had approached the authorities several times.

4. IA No. 759/2023 has been filed by Respondent No. 6, who is also present in person. By way of IA, certain documents have been placed on record. Referring to them, Respondent No. 6 has submitted that his land was not acquired and that he is not an encroacher. Raising a counter argument, Counsel appearing for the Applicant as also Counsel for District Magistrate, Faridabad, on instructions from the officers present in court, has submitted that it is the acquired land which has been encroached upon by Respondent No. 6.

5. Learned Counsel appearing for District Magistrate, Faridabad, on instructions from the officers present in court, has also submitted that a part of construction raised by Respondent No. 6 falls within the acquired area, therefore, the action is initiated only to demolish that part which has encroached upon the park area. It has also been pointed out that Respondent No. 6 has already filed a civil suit. The progress relating to removal of encroachment has been reflected in the action taken report filed by the District Magistrate, Faridabad in compliance of order of the Tribunal dated 21.08.2023 to the following effect:

“8. *That Estate Officer in its report dated 10.10.2023 (Annexure R/8) had stated that Khasra no. 85//15 (4 Kanal 8 Marla) was acquired vide award no. 26 dated 26.06.1973, Rapat no. 346 dated 26.03.1973 and Khasra no. 85//16/2 (0 Kanal 13 Marla) was acquired vide award no. 14 dated 30.11.1971, Rapat no. 147 dated 30.11.1971. Nearly 80 square yards of encroachment in Khasra no. 85//16/2 and 85//15 have been removed in the presence of Duty Magistrate Shri Ajit Singh by HSVP and out of the remaining 125 square yards; some portion of the ground floor has been removed. Some encroachments still remain and the same will be removed through further*

proceedings with appropriate resources (popclain machines etc.).”

6. The Tribunal while passing the order in OA has exercised a limited jurisdiction in respect of maintenance of the park. Determination of ownership right or property dispute does not fall within the jurisdiction of the Tribunal.

7. The concerned respondents are required to proceed with the direction of the Tribunal contained in the order dated 02.09.2020 passed in OA No. 07/2020 for the purpose of removal of encroachment in the park. If there is any legal impediment or any interlocutory or final order passed by any competent Court or Tribunal is produced, the authorities will duly take it in account. If Respondent No. 6 is aggrieved by any action of the concerned respondent on the basis of his title or property right, he will be at liberty to approach the competent Court.

8. Learned Counsel appearing for the District Magistrate, Faridabad, on instructions from the officers present in court, has duly stated that the steps are being taken to execute the order of the Tribunal. Hence, taking said stand on record, the Execution Application is disposed of.

Prakash Shrivastava, CP

Dr. A. Senthil Vel, EM

January 24, 2024
Execution Application No. 29/2023
In Original Application No. 7/2020
(IA No 760/2023, IA No 759/2023)
DV.