

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 3864 of 2001

Date of Decision: 02.02.2015

Rajinder Kumar

....Petitioner

Versus

The State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA**

Present: Mr. Manoj Bajaj, Advocate, for
Mr. Jagdish Manchanda, Advocate for the petitioner.

Mr. Lokesh Sinhal, Addl. Advocate General, Haryana.

HEMANT GUPTA, J.(ORAL)

The petitioner has sought a writ in the nature of certiorari for quashing of the action of the respondents in demolishing the shops in question without adopting any procedure under the Punjab Improvement Town Act, 1922 [for short, "the Act"].

Petitioner claims to be owner of shop No.736, situated in ward No.12 at Sarswati Sarowar, Pehowa, which is said to be an ancestral property. It has also been averred that copy of the rent deed, to authenticate the averments showing his continuous possession over the shop in question shall be shown at the time of the arguments. The grievance of the petitioner is that the administrative authorities have started a campaign to demolish the shops situated at Saraswati Bazar, Pehowa, which is said to be an illegal act, without following any procedure.

In reply filed on behalf of respondent No.2- Municipal Committee, Pehowa, it has been pointed out that no constitutional or other legal right of the petitioner has been infringed or threatened by the action of the answering respondent. The respondents are trying to widen the public street, which had been narrowed down, congested and

unworkable because of the illegal encroachments made by the shopkeepers on its both sides. In view of the difficulty faced by the general public, the shopkeepers of Purana Bazar, Pehowa including the petitioner convened a meeting and decided to demolish/remove their respective encroachment up to 4 feet so that bazar/ public street could be widened. Pursuant to the said decision of the shopkeepers, all the shopkeepers except the petitioner demolished their shops/structures on their own sweet will up to 4 to 4½ feet. It has been also pointed out that the petitioner has concealed this most material aspect of the matter. In support of the plea that all other shopkeepers have removed encroachment, so as to make available 4 to 5 feet wide area, the respondents have attached photographs along with the written statement and also attached a site plan of the area in question.

We have gone through the record and find that the petitioner is in possession of the land since long, but there is no document attached with the writ petition as to the ownership of the same. In fact, at one stage, it is pleaded that the petitioner will show the rent deed. Therefore the petitioner can be in possession but not as owner.

Since the petitioner claims to be in possession of the land, which as per the Municipal Committee is part of public street, therefore, we dispose of the present writ petition with a direction to the respondents to initiate proceedings and to remove illegal encroachments as per the provisions of law after associating the petitioner.

(HEMANT GUPTA)
JUDGE

(HARI PAL VERMA)
JUDGE

February 02, 2015
Anjal