

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.12799 of 2015

Date of decision: 03.07.2015

Ramesh Kumar

....Petitioner

Vs.

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE AMOL RATTAN SINGH.**

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. D. Khanna, Addl. Advocate General, Haryana

Mr. Karan Singh, Advocate
for respondent No.3.

Rajive Bhalla, J (Oral)

The petitioner prays for issuance of a writ of certiorari, setting aside the letter dated 15.05.2015, whereby the petitioner has been directed to vacate the shop and hand over possession to the Gram Panchayat.

After hearing counsel for the petitioner, the following order was passed on 01.07.2015 :-

“Counsel for the petitioner submits by reference to ejectment order dated 29.05.2002 that the petitioners have been ordered to be evicted from land other than the land measuring 18x11 feet but the respondents have sealed the entire shop.

We have heard counsel for the petitioner and as the unauthorised construction, which is in excess of 18x11 feet is an integral part of the shop originally measuring 18x11 feet, we find no error in the sealing of the entire shop.

At this stage, counsel for the petitioner states that if the petitioner is allowed to open the shop, he shall voluntarily demolish construction raised on the land beyond 18x11 feet and deliver possession to the respondents.

Notice of motion for 03.07.2015.

At the asking of this Court, Mr. D.Khanna, Additional Advocate General, Haryana, accepts notice on behalf of respondents no.1 and 2 and prays for time to seek instructions/address arguments.

Process dasti.

Counsel for the petitioner is directed to supply two copies of paper book to Mr. D.Khanna, Additional Advocate General, Haryana, during the course of the day.”

Counsel for the Gram Panchayat submits that the Gram Panchayat has no objection if possession of the shop measuring 18x11 feet, as originally leased out, is restored to the petitioner but after the petitioner constructs a wall delimiting the area of 18x11 feet so that the Gram Panchayat may use the remaining area for any public purpose that it may deem appropriate. The petitioner may also be directed to pay the penalty as determined, by order dated 29.05.2002 and to deposit upto date rent.

Counsel for the petitioner states, on instructions from the petitioner, that the petitioner will raise a wall to bifurcate the area 18x11 feet from the area in his unauthorized occupation and has no objection if the Gram Panchayat uses the other land, but the petitioner may be granted 6 months time to deposit the penalty. Counsel for the petitioner further states that up to date rent has already been deposited.

We have heard counsel for the parties and in view of statements

made by counsel for the parties, dispose of the writ petition in the following terms:-

- a) The Gram Panchayat shall restore possession of shop measuring 18x11 feet to the petitioner.
- b) The petitioner shall raise a wall to enclose the area measuring 18x11 feet and shall have no right to the land other than land measuring 18x11 feet.
- c) The Gram Panchayat shall be free to use the other land for such purpose as it may deem appropriate, as per law.
- d) The petitioner shall deposit the penalty within a period of 6 months.
- e) In case the petitioner has not deposited up to date rent, he shall deposit the entire rent within 15 days from today, as per law.

(Rajive Bhalla)
Judge

July 03, 2015
vcgarg

(Amol Rattan Singh)
Judge