

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.16518 of 2015

Date of Decision: August 12, 2015

Manjit Singh Kahlon

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE JASPAL SINGH.

Present: Mr.B.S.Seemar, Advocate, for the petitioner.
Mr.Rajesh Bhardwaj, Additional AG, Punjab.
Mr.Anil Sharma, Advocate, for respondent Nos.3 & 5.

:-

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

Notice of motion to respondent Nos.1, 3, 4 & 5
only at this stage.

On our asking, Mr.Rajesh Bhardwaj, Additional
Advocate General, Punjab, accepts notice on behalf of
respondent Nos.1 & 4 and on our directions, Mr.Anil Sharma,
Advocate, accepts notice on behalf of respondent Nos.3 & 5.

Let two copies each of the writ petition be
supplied to the State counsel and learned counsel for
respondent Nos.3 & 5 during the course of day failing which
this order shall be automatically recalled and the writ petition
shall be deemed to have been dismissed for non-prosecution.

Though the Greater Ludhiana Area Development
Authority (GLADA) is also the concerned Authority but as of

now we do not deem it necessary to issue notice to it for the reason that the Deputy Commissioner, Ludhiana will ensure compliance of our directions issued herein-after by the said Authority also. We also do not deem it necessary to hear respondent No.6 at this stage as no order prejudicial to his lawful rights is being passed. Similarly, it is also not necessary to seek any counter-reply from respondent Nos.1, 3, 4 & 5.

The petitioner resides in House No.352/1, Jawadi Kalan, Model Town, Ludhiana. Respondent NO.6 is stated to be owner of plot No.526 and bearing House No.311-A in the same locality. It is stated to be in front of the petitioner's house.

The grievance of the petitioner is that though the above-stated colony is a 'residential colony' but the 6th respondent is raising unauthorized construction over his plot with a view to house the labourers and thus want to convert the residential site purely for a commercial venture. It is averred that the building plan has not been got sanctioned nor such a construction which is predominantly commercial in nature is permissible. It is also the grievance of petitioner that he has been running from pillar to post to stop the unauthorized construction in front of his house where, if construction is completed, hundreds of labourers would be brought as tenants. However, no action has been taken on his representation. The petitioner is said to have approached the Deputy Commissioner, Ludhiana as well.

Here comes the role of Municipal Corporation, Ludhiana within whose jurisdiction the subject plot is located. There is no gain saying that the residential site falls within the jurisdictional area of the Municipal Corporation where no

construction can be raised whether residential or commercial, unless the building plans are duly sanctioned. Similarly, a residential site cannot be mis-used for commercial purposes. The very object of deployment of enforcement staff in the Municipal Corporation is to survey different areas periodically and take timely action to prevent unauthorized constructions.

If the allegations made by the petitioner were to be true, it is a clear case of dereliction of duty by the municipal authorities including its enforcement staff. We will say nothing more at this stage especially when respondent No.6 has not been heard at this stage. Conversely, if the site in question is either 'schedule' or 'commercial', respondent No.6 is well within his right to utilize the same for the notified purpose save that he has to get the building plan sanctioned and obtained permission from the Competent Authority.

We, thus, dispose of this writ petition at this stage without expressing any views on merit but with a direction to the (i) Deputy Commissioner, Ludhiana; (ii) Commissioner, Municipal Corporation, Ludhiana, and (iii) Town Planner/ Assistant Town Planner, Municipal Corporation, Ludhiana, to verify whether the construction being raised by respondent No.6 is lawful or not. If it is found that respondent No.6 has raised unauthorized construction, the above-named authorities shall take prompt action in accordance with law as early as possible but not later than one month from the date of receiving a certified copy of this order. The Municipal Corporation, Ludhiana, shall further obtain a report from its enforcement staff regarding the entire area of Jawadi Kalan, Model Town, Ludhiana in respect of unauthorized constructions, if any, raised on other plots as well.

No penal action shall be taken against respondent
No.6 without giving him an adequate opportunity of hearing.

Ordered accordingly.

Dasti.

[SURYA KANT]
JUDGE

August 12, 2015
mohinder

[JASPAL SINGH]
JUDGE