

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

CWP No. 3237 of 2014 (O&M)

Date of decision: 13.03.2015

Randhir Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

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

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioners seek direction to the respondents not to demolish the constructed shops which have been rented in a public auction to them in the year 1971 being owner of Municipal Committee in view of the Government order Memo No. 76(3) 714964-85/G1 II dated 11.10.1983 (Annexure P-2).

It is contended that the petitioners are in possession of the shops since 1977 and they had not constructed the shops nor they encroached upon the land where the shops were constructed by the Municipal Committee. The said shops were rented out to the petitioner through a bid. The petitioners have been regularly paying

the rent of the shops to the Municipal Committee till December, 2009. The area on the which the shops were constructed were never reserved nor earmarked for green belt or parking by the Government.

Perusal of the record would reveal that in the year 1969 Rehabilitation department had provided the space for shops and the shops were given in open auction on rent basis. There was an open space behind the shops which was meant for rehabilitation colonies as per policy of the State Government, vide Memo No. 76 (3-0), 714, 964-85 – G1 II dated 11.10.1983 (Annexure P-2), upon which the Municipal Committee, Sonapat, also constructed the shops in the year 1976. The State Government has formulated specific instructions which defines that the land in the Rehabilitation Colonies be categorized as under:-

- 1. Area under Parks/Open Spaces.*
- 2. Area used/leased out or disposed of by the Municipal Committees,*
 - a. Area used for office building and for other public purpose.*
 - b. Area sold to the individuals in the form of plots etc.*
 - c. Area given on lease to private individuals.*
 - d. Area on which shops etc. have been built upon and rented out or sold off.*
- 3. Area encroached upon by the private individuals/institution.*
- 4. Area available for disposal at the moment including the area under occupation of the Government institutions.*

In Civil Writ Petition No. 11673 of 2011, filed by the similarly situated persons, this Court passed the following order on 01.08.2012.

“Perusal of the above reproduced extract of replies filed on behalf of respondents No. 2 to 4 shows that some civil suits are pending in the Civil Courts and interim injunctions have been granted therein. From the reading of the contents of the writ petition and the respective replies, we find that it is virtually admitted that construction of the shops exists on the land, which forms part of the Planned Shopping Complex and that land is neither owned by the Municipal Council nor any other individual in possession.

Under the circumstances, we dispose of this writ petition by issuing directions to the Deputy Commissioner, Sonapat to remove existing unauthorized constructions qua which there is no interim order passed by the competent Civil Court. In case, any civil suit is pending, the Municipal Council, Sonapat is directed to place on record of the said suit, a copy of the order passed by this Court and the written statements filed in this writ petition so that an appropriate order can be passed by the Civil Courts.”

The said shops constructed in open space was unauthorizedly given on rent by the Municipal Committee. The said land is neither owned by the Municipal Committee nor by any other individual.

Dismissed.

13.03.2015

sumit.k

(JITENDRA CHAUHAN)
JUDGE