

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

CWP No. 3367 of 2014

Date of decision : 13.02.2015

Chhinder Pal Singh

....Petitioner

V/s

State of Punjab & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. ADS Jattana, Advocate for the petitioner.

Mr. V. Ramswaroop, Addl. A.G. Pb.

Ms. Ruchi Sen, Advocate for

Ms. Deepali Puri, Advocate for respondent no. 2.

RAJAN GUPTA J.

Petitioner has prayed for a direction to restrain the respondents from demolishing a part of his premises which adjoins the office building of Municipal Council, Sri Muktsar Sahib.

Learned counsel for the petitioner has argued that notice, Annexure P7 had been issued without any substantive order having been passed under the provisions of Punjab Municipal Act. According to him, he was not afforded any opportunity of hearing before issuance of said notice. He prays that Municipal Council, Sri Muktsar Sahib be restrained from demolishing his part of the property.

Reply has been filed by Municipal Council, Sri Muktsar Sahib. According to its stand, petitioner has encroached on the government land measuring 48'-6" x 9' as would be clear from

perusal of site plan, Annexure R-1. Thus, there is no merit in his plea and same needs to be rejected.

I have heard learned counsel for the parties.

It appears that house of the petitioner is adjoining the official building of Municipal Council, Sri Muktsar Sahib. Perusal of site plan, Annexure R1 shows that petitioner has extended the boundary of his house into the premises of Municipal Council, Sri Muktsar Sahib. Area measuring about 48' – 6" x 9' is shown as red in color in the site plan which is the encroachment. According to record, petitioner is owner in possession of khasra number 1259 only and has encroached to the extent of 48'-6" x 9' in khasra no. 4520/1311/1. Municipal Council, Sri Muktsar Sahib has relied on jamabandi, Annexure R2 in support of his contention. It appears that petitioner also filed a suit for permanent injunction before the civil court at Muktsar Sahib. However, same was dismissed on 29.05.2013 (Annexure R4). Before civil court, Municipal Council, Muktsar Sahib had taken the same stand that revenue record consisting of missal haqiat etc. clearly showed that encroached area was in-fact ownership of the Municipal Council. In the facts and circumstances of the case, I am of the considered view that there is no ground to interfere in writ jurisdiction. Dismissed.

February 13, 2015

Ajay

(RAJAN GUPTA)
JUDGE