

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4031 of 2015 (O&M)

Date of Decision:-17.12.2015.

Raj Kumar and another

.....Petitioners

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

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?

Present: Mr. N.P.S. Mann, Advocate for the petitioners.

Mr. Rajesh Bhardwaj, Additional A.G. Punjab.

Ms. Jasvir Kaur, Advocate for respondent No.3.

Mr. Munish Jolly, Advocate for the applicants.

SURYA KANT, J. (ORAL)

1.) The instant writ petition is nothing but an injunction suit in which the petitioners have sought a restraint order against demolition of their shops.

2.) The facts on record reveal that the petitioners have recently constructed shops on the National Highway No.71 i.e. Patiala-Samana-Patran-Narwana road in Patran town. The case of Municipal Council, Patran is that the petitioners have raised

construction in violation of the sanctioned building plans. The petitioners, on the other hand, allege that they are being targetted for political reasons as no demolition notice has been issued to other similarly placed shopkeepers.

3.) Having heard learned counsel for the parties and keeping in view the directions already issued by this Court in exercise of PIL jurisdiction in CWP No. 4886 of 2003 titled **“Court on its own motion Versus State of Punjab and another”** decided on 4.10.2008, we are of the considered view that no one can be allowed to raise illegal and unauthorized construction in violation of the National Highway Act, Scheduled Road Act or the Municipal Laws. If the petitioners have raised any illegal construction, the same is liable to be demolished but not on pick and choose basis. Further, such an action has to be taken after observing the principles of natural justice and by following the due process. The Authorities are equally obligated to identify all the encroachers and take action against them uniformly.

4.) The instant writ petition is, thus, disposed of with a direction to the Municipal Council, Patran to firstly identify all the encroachers who might have raised unauthorized or illegal constructions on National Highway No.71, and then serve them the notices under PUDA Act, 1995 and/or any other local law. The petitioners shall also be served with fresh notices giving specification of the unauthorized or illegal construction raised by them. Such

notices shall be served on other encroachers as well, if any. After considering their reply to the notices, the appropriate and reasoned orders for demolition may be passed in accordance with law.

5.) No Civil Court shall grant any *ad interim* injunction against demolition of the shops wherever the orders are passed following the above suggested recourse.

6.) However, till the appropriate procedure is followed, the shops constructed by the petitioners shall not be demolished. The petitioners shall also not raise further construction at their sites. The Municipal Council, Patran shall do the needful within a period of four months and a compliance report shall be sent by its President and Executive Officer to the Registrar General of this Court.

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

December 17, 2015.

sandeep sethi