

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

CWP No.5543 of 2014

Date of decision:12.1.2015

Sarita Kaushik and others

....Petitioners

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Mohinder Kumar, Advocate for the petitioners.

Mr. P.S. Bajwa, Additional Advocate General, Punjab
for respondents No.1 to 3, 5 and 8.

Mr. J.S. Toor, Advocate for respondent No.4.

Mr. Vijay Kumar Kaushal, Advocate for respondents
No.6 and 7.

HEMANT GUPTA, J.(Oral)

The petitioners claim a direction to the respondents to implement the decision dated 27.12.2012 (Annexure P-3) taken in a meeting held under the Chairmanship of the Deputy Commissioner, SAS Nagar, Mohali regarding the site for setting up of a Sewerage Treatment Plant and Main Pumping Station in Naya Gaon Town.

The petitioners claim to be co-owners and in possession of the land comprising in Khasra No.129/1 situated in the revenue estate of village Nada, Nagar Panchayat, Naya Gaon, Tehsil Kharar, District SAS Nagar, Mohali. The petitioners claim to have constructed their houses on the said land wherein they are claiming to be residing as well.

The grievance of the petitioners is that Punjab Water Supply and Sewerage Board have decided to set up Sewerage Treatment Plant in the area of Nagar Panchayat, Naya Gaon and that the State had earlier issued notices to the residents of Vikas Enclave situated in Khasra No.232/1/2 to enable the State Government to set up a Sewerage Treatment Plan in the said area whereas the petitioners are in occupation of the land situated in Khasra No.129/1. The petitioner claims that the *shamilat* land adjoining the land owned by the petitioners is available where the State can set up the Sewerage Treatment Plant.

The reliance of the petitioners is on the minutes of the meeting held under the Chairmanship of Deputy Commissioner, SAS Nagar, Mohali on 27.12.2012 wherein it was decided that there is a need to shift the site earmarked in the Master Plan of Naya Gaon prepared by the Department of Local Bodies. It is the said decision which is sought to be enforced by the petitioners in the present writ petition.

A perusal of the written statement filed on behalf of the Punjab Water Supply and Sewerage Division shows that area of Sewerage Treatment Plan was earmarked by the Director, Local Bodies as per the site earmarked in the Master Plan. The Master Plan has been notified by the Chief Town Planner who is the only competent authority to advise the State for change of Master Plan.

In a separate reply filed on behalf of the State, learned Sub Divisional Magistrate has stated that the decision taken in the meeting dated 27.12.2012 was only recommendatory in nature and in

no way binds Department of Local Government to change the Master Plan.

In a separate reply filed on behalf of Nagar Panchayat, Naya Gaon, it has been stated that the Existing Land Use Plan and Draft Master Plan – 2021 for the Local Planning Area of Naya Gaon was published as required under the provisions of sub-section 3 of Section 70 of the Punjab Regional and Town Planning and Development (Amendment) Act, 2006. Total 47 objections were filed including 1 from the Forest Department and 1 from the Chandigarh Administration whereas 45 from general public. The Committee approved the Draft Master Plan in its meeting held on 02.12.2008 after considering the objections filed. The area in question has been reserved for Public Utilities including sewage and solid waste management. It has been further stated that the minutes of meeting under the Chairmanship of Deputy Commissioner was considered by the Director, Local Bodies who rejected the resolution dated 16.07.2013 on 23.09.2013 being violative of the Master Plan and directed to acquire the land earmarked for Treatment Plant in the notified Master Plan. It has also been stated that subsequent to the notification of the Master Plan, the petitioners raised construction without obtaining any approval of Building Plans from the competent authority as required under the provisions of The Punjab Municipal Act, 1911 and the construction is unauthorized.

We have heard learned counsel for the parties and find no merit in the present writ petition. The petitioners have not given the date on which they have purchased the land over which they have raised their construction. Master Plan of the area in question was

finalized in the year 2008. The area where the petitioners have raised construction has been reserved in the Master Plan for Public Utilities i.e. for Sewerage Treatment Plant and Sewage and Solid Waste Management. The *shamilat* land owned by Nagar Panchayat cannot be diverted of the purpose as the same cannot be used Sewerage Treatment Plant as per Master Plan finalized. The Nagar Panchayat is resisting the change of land use finalized in terms of a statute. Mr. Toor, learned counsel representing the Nagar Panchayat, also states that the site in question is most suitable keeping in view the flow of the water as well.

Since the petitioners alleged to have raised construction without sanction of the building plans and in the area reserved in the Master Plan for Sewerage Treatment Plant, we do not find that the petitioners are entitled to any indulgence on the basis of equity on the ground that they have purchased the plots and raised unauthorized construction.

We do not find any merit in the present writ petition and same is consequently dismissed.

(HEMANT GUPTA)
JUDGE

JANUARY 12, 2014
‘D. Gulati’

(HARI PAL VERMA)
JUDGE