

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 888 of 2015 (O&M)

Date of Decision : February 04, 2015

Samaan Nagrik Sanhita Abhyan Petitioner

Vs.

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.

HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. V. B. Aggarwal, Advocate
for the petitioner.

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DEEPAK SIBAL, J. :

Styling the present petition in public interest, the petitioner has approached this Court through the present writ seeking removal of alleged illegal encroachments raised by shopkeepers, who, according to the petitioner, have raised pacca construction on both sides of State Highway No. 14 resulting in constant traffic jams and great inconvenience to the general public at large.

Shorn of the unnecessary details, we notice that for the same relief, the petitioner had earlier knocked the doors of this Court through **C. W. P. No. 7890 of 2011 - Samaan Nagrik Sanhita Abhyan vs. State of Haryana and others** (Annexure P-16). This writ petition was considered by a Division Bench of this Court and dismissed on merits while holding as under :-

“Be that as it may, after issuance of notice of motion, replies have been filed. The Deputy Commissioner – respondent No.3 in his reply has specifically stated that after receipt of a notice, demarcation of the road was got done at the spot and no encroachment was found at the spot. The demarcation report is available at page No.111 of the paper book. Contents of said demarcation report read thus:-

“Today as per order of Sub Divisional Officer (C) Panipat & Tehsildar Panipat dated 14.9.20011 for demarcation of Assandh Road, I alongwith Satbir Singh Halqa Patwari reached to the place in dispute alongwith revenue

record. Sh. Arun Kumar JE, Roshan Lal Patwari, Suraj Bhan Beldar, Hawa Singh Beldar and Mohinder Chowkidar, all employees of PWD B&R were present at spot. Demarcation of Khasra No.3665, Assandh Road from GT Road to Railway Road line was conducted with the help of Inch tape (Feeta). Demarcation was started from Southern- Eastern corner of khasra No.3665 on spot of the road and same was symbolic. The demarcation was found correct according to revenue record. This point was also checked and ratified from khasra No.3504 (Railway line) also. In addition to this demarcation was also conducted from khasra No.1270 etc. upto the Southern-West corner of Khasra No.1484. The work of demarcation was initiated from Northern-Eastern corner of Khasra no. 3481 and done

upto the Northern-Eastern corner of Khasra No.1484 and mark of road was conducted at the spot. Same was found correct as per revenue record. All the present persons were satisfied from this demarcation. No dispute was occurred/ created on spot. Therefore the demarcation report was submitted before the Tehsildar Panipat for further necessary action.”

To show that there is no encroachment on the public road, photographs have also been placed on record along with the reply filed by the Deputy Commissioner.

From the facts on record, we are satisfied that the petitioner has failed to make out any case for issuance of directions by this Court.

Consequently, the writ petition stands dismissed.”

The petitioner then sought a review of the above quoted order

through R. A. No. 435 of 2012 in C. W. P. No. 7890 of 2011 - Samaan Nagrik Sanhita Abhyan vs. State of Haryana and others (Annexure P-17). This Review Application (RA) was also considered and dismissed by the Division Bench on 05.10.2012 by passing the following order :-

“This application has been filed to review an order dated 26.07.2012.

The above order was passed by this Court in the presence of counsel for the applicant. Whatever arguments were raised, those were noted and dealt with.

Accordingly, no case is made out to review the order dated 26.07.2012.

The application is dismissed.”

Aggrieved by the above two orders, the petitioner then approached the Apex Court through a Special Leave Petition (SLP). Through order dated 06.05.2013 (Annexure P-18), the Apex Court did not entertain the SLP, but granted the petitioner liberty to approach the Deputy Commissioner, by passing the following order :-

“Having heard learned senior counsel for the petitioner, we are not inclined to entertain the special leave petitions, which are dismissed, but the

petitioner will be at liberty to approach the Deputy Commissioner, the respondent no. 3, in this behalf, having regard to the other Report, which appears to have been submitted by the Executive Engineer, Provincial Division, P. W. D., B&R Branch, Panipat CD-25.”

In terms of the liberty granted by the Apex Court, the petitioner filed a representation to the Deputy Commissioner-cum-District Collector, Panipat. This representation dated 05/17.07.2013 has been annexed with the present petition as Annexure P-19. When the above representation was not decided, the Coordinator of the petitioner preferred a contempt petition i.e. **COCP No. 1517 of 2014 - Nem Chand Jain vs. Ajit Bola Joshi** before this Court alleging contempt of the orders passed by the Apex Court referred to above. That contempt petition was withdrawn by the Coordinator of the petitioner, which is clear from the order passed by this Court in the contempt petition. The same is reproduced below :-

“Learned counsel for the petitioner prays for withdrawal of the petition in order to file a writ petition.

Dismissed as withdrawn.

Liberty granted.”

From the above, it is clear that the petitioner had already approached this Court earlier for the same cause. This court, after considering the stand of the Deputy Commissioner, had dismissed the case on merits. The Apex Court also did not interfere with the orders passed by this Court. The contempt petition preferred by a Coordinator of the petitioner also was withdrawn.

In view of the above facts, the present petition for the same cause of action is nothing but an abuse of the process of law. The persistence shown by the petitioner persuades us to believe that there is some personal interest of the petitioner in the case in hand and not public interest, as sought to be projected. A litigant cannot be allowed to re-open settled issues and burden the Courts with frivolous litigation.

In view of the above, finding no merit in the present petition and further finding the present petition to be frivolous, we dismiss the same and on account of the conduct of the petitioner, as noticed above, we burden the petitioner with costs quantified at ₹ 25,000/-, to be deposited with the Haryana State Legal Services Authority.

(SATISH KUMAR MITTAL)
JUDGE

(DEEPAK SIBAL)
JUDGE

February 04, 2015

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