

**LPA No.1570 of 2014 (O&M)**

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

**LPA No.1570 of 2014 (O&M)**

**Date of Decision: February 05, 2015**

**Inderjit Singh & others**

...Appellants

Versus

**Municipal Council, Jagraon & others**

...Respondents

**CORAM: HON'BLE MR. JUSTICE S. J. VAZIFDAR, ACTING CHIEF JUSTICE  
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASHI**

**Present: Mr. Narinder Singh Dadwal, Advocate  
for the appellants.**

Mr. J.S. Toor, Advocate  
for respondents Nos.1 and 2.

Mr. Gurcharan Dass, Advocate  
for respondent No.5.

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**S. J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral):**

Admitted.

2. Heard finally.

3. This is an appeal against the order of the learned Single Judge disposing of the 5<sup>th</sup> respondent's petition. On 03.12.2010, respondents Nos.1 and 2 had sanctioned certain construction/building plan in favour of respondent No.5. By an order dated 15.12.2010, respondents Nos.1 and 2 cancelled the said plan. Respondent No. 5 submitted two representations, both dated 23.12.2010, against the order of cancellation. Respondent No.5 challenged the order of cancellation by filing Civil Writ Petition No.819 of

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2011. That writ petition was disposed of by an order and judgment dated 17.01.2011, directing respondents Nos.1 and 2 to consider the said representations of respondent No.5 within two months. Pursuant thereto, respondents Nos.1 and 2 passed the order dated 15.02.2011 impugned in the writ petition. Respondent No.5 has also challenged the other orders which were adverse to him. This writ petition was disposed of by the impugned order.

4. The learned Single Judge only referred to the above facts and held as under:-

*“Learned counsel for the respondents No.1 and 2 states that the petitioner was digging the basement beyond the proposed building plan dated 03.12.2010.*

*Since, the building plan dated 03.10.2010 has been duly sanctioned and approved, at this stage, this petition is disposed of by giving a direction to the petitioner to go and appear before the Executive Officer, Municipal Council, Jagraon and give an undertaking that he will abide by the conditions, which were imposed at the time of sanction of the proposed building plan dated 03.12.2010 and will not encroach upon the Municipal road beyond the area of the Building plan.”*

5. The petition has been disposed of by the impugned order. However, the question as to whether the orders impugned in the writ petition ought to be set aside or not remained to be considered by the learned Single Judge. It was contended on behalf of respondent No.5 that this is implied from the order. That is not so. If the learned Single Judge wanted to quash

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the order of cancellation, the order would have reflected the same. In fact, the disposal of the writ petition in this manner may ultimately prejudice even respondent No.5, for it could be contended in future that the order of cancellation which was impugned in the writ petition stands and therefore, even if he gives the undertaking, it would not entitle the writ petitioner to proceed on the basis of the plan which was earlier sanctioned.

6. In the circumstances, the impugned order and judgment is set aside and the matter is remanded to the learned Single Judge for fresh disposal.

The appeal is, accordingly, disposed of.

**( S. J. VAZIFDAR )**  
**ACTING CHIEF JUSTICE**

**( AUGUSTINE GEORGE MASIH )**  
**JUDGE**

**February 05, 2015**  
*Harish*