

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Writ Petition No.10887 of 2015(O & M)

Date of Decision:04.02.2016

Mohinder Singh Beniwal and others

....petitioners

Versus

Haryana Urban Development Authority and othersrespondents

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI**

- 1. 1.Whether Reporters of local papers may be allowed to see the judgement?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr.Sandeep Panwar, Advocate
for the petitioners

Mr.Deepak Balyan, Advocate for HUDA

Mr.D.S.Gurna, Advocate
for respondent No. 4

S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

CM No.1279 of 2016

Application is allowed as prayed for. Annexures P11 to P13 are taken on record.

Civil Writ Petition No.10887 of 2015(O & M)

The petitioners' grievance is that respondent No.4-private respondent is encroaching upon the land belonging to HUDA, putting up illegal construction thereon and letting the same out to various persons, who are causing a nuisance.

We do not wish to express any opinion regarding the allegation of nuisance, as the parties concerned are not before us. Respondent No.4 rightly does not claim any right to encroach upon the property belonging to HUDA. In a civil suit, a decree has been passed in favour of respondent No.4, specifying the property, to which he is entitled. HUDA has challenged the decree in appeal.

It is obvious that respondent No.4 is not entitled to encroach upon the property of any party including HUDA. HUDA shall, therefore, survey the property and demarcate the same. Respondent No.4 shall not encroach upon any part of the property which does not belong to him. Respondent No. 4 is at liberty to put up the wall to ensure that no encroachment takes place upon its property, after demarcation, and in accordance with law.

We are informed that a process has already been initiated by the Estate Officer. There is nothing to suggest that the decision has been revoked. Presumably, therefore, HUDA will go ahead with the decision to construct a wall.

The opposition of respondent No.4, to construct a wall, cannot be understood. Respondent No.4 cannot prevent HUDA from constructing a wall on its own property. Needless to add that while constructing a wall, HUDA will ensure that respondent No.4 has access to his property. Subject to any decision to the contrary, it is desirable that the construction of the wall is completed as expeditiously as possible. It is further clarified that this order does not effect the rights of the official respondents-HUDA, in any manner, whatsoever. HUDA has in fact, challenged the decree dated 31.08.2015 passed by the Civil Court in Civil Suit No. 38 of 2012. The rights and contentions of the respondents, as regards the title, including in respect of which the decree is passed, are kept open.

The petition stands disposed of, accordingly.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE

February 04, 2016