

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.14236 of 2016
Date of decision:21.7.2016**

Mr.Bhavya Goyal

...Petitioner

Versus

Municipal Council, Thanesar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Petitioner in person.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioner, by way of instant writ petition under Articles 226/227 of the Constitution of India, seeks a writ in the nature of mandamus against the respondents alleging that respondent No.3 is constructing a hospital building illegally, besides running a pediatric hospital and remedial classes for children in an unsafe and illegal manner.

Petitioner, who is appearing in person, while placing reliance on two judgments of the Hon'ble Supreme Court in **Om Prakash Chautala Vs. Kanwar Bhan and others, Civil Appeal No.1785 of 2014 decided on 31.1.2014** and **Seema Arshad Zaheer and others Vs. Municipal Corpn. Of Greater Mumbai, (2006) 5 SCC 282**, submits that respondents are indulging in illegal activities by raising construction of hospital building in illegal manner. He further submits that even before completion of the building, a paediatric hospital is being run by respondent No.3, in addition to the remedial classes for children in an unsafe and under construction building. He next submits that Late Shri Radha Kishan was his great-

grandfather in whose name Radha Kishan Children Hospital, Kurukshetra, is being run by respondent No.3. He further submits that illegal activities being committed by respondent No.3 causes serious prejudice to him including bringing bad name to his ancestors, thereby causing harm to his reputation. He concluded by submitting that plot underneath the hospital building was purchased by his mother. He claims to have contributed some amount in the respondent-Trust but only for doing charitable activities and now respondent No.3 is flouting very purpose of constituting the trust. He prays for allowing the instant writ petition.

After hearing the petitioner at considerable length, careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that the present writ petition is bereft of merit and the same is liable to be dismissed with costs.

A bare perusal of the photographs placed on record in the form of Annexures P-2 and P-4, would show that a five storey building had already come up. Such a huge building cannot be constructed overnight. So far as Radha Kishan Children Hospital is concerned, only a signboard is there, but perusal of the photograph at page 35 of the paper-book (Annexure P-4) would make it crystal clear that no hospital is being run.

As far as remedial classes allegedly being run for the children are concerned, photograph Annexure P-3 would show that it has got no connection with the hospital building. It is a matter of record that petitioner along with his mother is staying at Noida, whereas respondent-Trust is constructing the hospital building at Kurukshetra. It was not denied during the course of hearing that trustees of the respondent-Trust are close

collaterals of the petitioner. The allegation in the petition is that trustees of respondent-Trust are causing major public nuisance and serious health as well as environmental hazard.

How and when the petitioner has become a champion of the alleged public cause overnight, is not forthcoming in the present writ petition. Petitioner has himself pointed out that he visited Kurukshetra recently but after five years. Although the above-said glaring facts would show that petitioner has some personal agenda against the respondents particularly the trustees of respondent-Trust. The instant writ petition has been filed only to settle the personal scores which amounts a glaring abuse of process of law.

Coming to the judgments relied upon by the petitioner, there is no dispute about the observations made by the Hon'ble Supreme Court. However, on close perusal of the cited judgments, none of them has been found of any help to the petitioner, both being distinguishable on facts. It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmasundra (Dead) Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

It goes without saying that every citizen has right to approach the court, however, it is equally true that he must come to the court with clean hands. In view of what has been discussed hereinabove, this Court has found the instant writ petition having been filed with an ulterior motive and hidden agenda of the petitioner which, in fact, has come to light during the

course of hearing itself, because he is feeling aggrieved against the alleged action of his collaterals. Petitioner has visited Kurukshetra, as claimed by him, just recently and that too after five years and only on alleged request having been made by the neighbourers of hospital building in Kurukshetra.

How those neighbourers are feeling aggrieved against the trustees of respondent No.3 in raising the hospital building, have also not been disclosed in the present writ petition. Even if some of the neighbourers of hospital building were feeling aggrieved, they would not keep on sleeping for such a long period till the building would be about to complete. Petitioner has miserably failed to point out his locus standi to pursue the instant writ petition on behalf of the alleged neighbourers of above-said hospital building at Kurukshetra, particularly when he is least interested in Kurukshetra, because he is staying at Noida and working in Delhi. Thus, petitioner has failed to show his locus standi to file and maintain the present writ petition.

Once the petitioner and trustees of respondent-Trust are the close collaterals, trustees of respondent-Trust have every right to use the name of common ancestor Late Shri Radha Kishan, with a view to run Radha Kishan Children Hospital. It has also not been pointed out as to how the trustees of respondent-Trust are indulging in illegal activities. If Radha Kishan Children Hospital would be run by the trustees of respondent-Trust, in the hospital building which is about to be completed, they would be required to meet the provisions of law, whichever are required to be complied with, while running such hospital. However, it does not appeal to reason as to how the petitioner would be feeling aggrieved by such an activity of the trustees of the respondent-Trust. Since the petitioner has

tried to overreach this Court by resorting to glaring misuse of process of law, the present writ petition is bound to fail and is to be dismissed with costs.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the instant petition has been filed to settle the personal scores with the trustees of respondent-Trust, besides being wholly misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made and keeping in view the totality of facts and circumstances of the case, the present writ petition stands dismissed, however, with no order as to costs.

21.7.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE