

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

CWP No.2499 of 2016

Date of Decision :8.2.2016

Sarojini Colony Phase-I Welfare Society
(Regd.)

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present: Mr. Puneet Sharma, Advocate
for the petitioner.

MAHESH GROVER.J.

The petitioner prays for issuance of a writ in the nature of mandamus directing the official respondents No.1 to 3 to restrain respondent No.4-School (wrongly mentioned as respondent No.3-School at most places in the petition) from interfering in their peaceful possession by setting up a gate on the rear side of the wall towards the residential colony of the petitioner society on the premise that no permission has been taken. Apart from this, numerous other prayers have been made, one of them which is specifically highlighted by the petitioner, may be extracted herebelow :-

“Further to enquire, determine and remove
the illegal encroachment made by respondent
No.3/school authority over the land adjoining the
school and to further inquire as to how the drainage

water channel (Nallah) has been diverted (which initially ran through the centre of the encroached land of the respondent no.3/school) to periphery/side line/South-East side of the school creating two sharp bends in the said water channel resulting into blockages and overflowing of the said Nallah during rainy season/heavy downpour.”

In so far as the primary prayer of the petitioner for restraining the respondent no.4-School is concerned, I am of the view that it involves the possessory rights of the petitioner and if threatened, the petitioner would have a remedy before the civil court. The petition is thus dismissed qua this aspect leaving the petitioner with remedies in law.

However, in so far as the prayer clause which has been extracted above is concerned, the court considering the legitimacy of this limited issue would deem it appropriate to dispose of the same without issuing notice of motion to the other side with a direction to take a view on this aspect and pass appropriate orders as also to take action if assertion of the petitioner is correct as this would involve the enforcement of a public duty by the official respondents to ensure that undue blockade of water does not create a problem for the residents of the area.

Consequently, the writ petition is disposed of with a direction to the official respondents to look into the grievance of the petitioner to the aforesaid limited extent within a period of two months from the date of receipt of a certified copy of this order and regarding the primary prayer the petitioner would be at liberty to take recourse to other remedies in law such as filing of civil suit to enforce injunction etc.

8.2.2016
dss

(MAHESH GROVER)
JUDGE