

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 25136 of 2016

Date of Decision: 5.12.2016

Inder Kumar Wadhwan

....Petitioner.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Vikram Singh, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing respondent No.2 to protect and for fencing of the HUDA property situated in khasra No. 5848 min, Old Mughal Canal, Sector 12, Part-II, near bridge adjoining shop of Kapoor AC, Karnal as some antisocial elements are bent upon to encroach upon the HUDA property and further to take action on the application dated 18.9.2015 (Annexure P-4) and legal notices dated 5.10.2016 and 17.10.2016 (Annexures P-7 and P-8, respectively) within some specified time.

2. The HUDA vide award dated 22.3.1991 acquired the plot measuring 100 square yards situated near Bridge Mugal Canal, Sector 12, Part II, Karnal and deposited the amount of compensation. The HUDA is the exclusive owner of the said plot. One Shri Santokh Lal and Shri

Jatinder Kumar started encroaching upon the said plot. The petitioner made various complaints including the complaint dated 13.5.2013 to the police authorities, but to no effect. The said persons taken away the sign board of HUDA installed on the said plot and dug the foundation but due to timely information given by the petitioner and the intervention by the HUDA Department, the said encroachment was stopped. The matter was reported in the newspaper on 9.9.2006 and a case was also registered at Police Station, Civil Lines, Karnal vide FIR No. 455 dated 14.9.2006. The petitioner again brought the matter into the notice of the Deputy Commissioner, Karnal who vide order dated 17.1.2007 demarcated the land and found out the ownership of the HUDA on the plot in question. Again on 12.5.2013, the said persons along with other persons armed with deadly weapons came to the said plot with JCB machine, tractors and other building material etc. and started digging the foundation to raise construction. The petitioner moved an application dated 11.2.2014 to respondent No.4 and the police authorities in this regard, but to no effect. Again, the petitioner sent an application dated 28.5.2015 (Annexure P-2) to respondent No.4. In CWP No. 6456 of 1998, it has clearly been stated by the HUDA, Karnal that the above said plot belongs to HUDA and all other departments like Municipal Committee, Improvement Trust also stated the same fact. Even the said fact has been established in Civil Suit No. 1173 of 1992 and also the appeal regarding which was dismissed as withdrawn vide order dated 23.11.2001 in which it was recorded that Santokh Lal had got no right or title ever on the said piece of land which had attained finality. The respondents vide letter dated 30.7.1998 and the Director Town Planning vide letter to the Municipal Corporation, Karnal stated that the

plot in question was owned by HUDA and the same had also been mentioned in a reply to the legal notice to respondent No.5 in reference to letter dated 21.6.1996. In COCP No. 13 of 2002 filed against the HUDA, it was clearly mentioned by respondent No.5 in the affidavit that the plot in question belonged to the HUDA and no one has got any right over it and in view thereof, this Court vide order dated 21.11.2015 (Annexure P-3) dismissed the said contempt petition. The staff of HUDA, Land Acquisition Officer and the Revenue Department demarcated the said land on a complaint made by the petitioner on the window of the Chief Minister. The said demarcation was done in the absence of the petitioner and the officials of HUDA and the Revenue Department did not mention the actual area of khasra Nos. 5480 and 5848 in absence of field book demarcation report was incomplete and made to help the encroachers. Thereafter, the petitioner moved an application before respondent No.2 which was marked to the Enforcement Wing and to the Administrator for taking action thereon. The HUDA authorities sent a message on the CM Portal in response to complaint No. 60695 that the land belongs to Santokh Tuli. The petitioner made a complaint dated 18.9.2015 (Annexure P-4) to respondent No.4 against the officials of HUDA and the revenue for giving wrong demarcation. When no action was taken thereon, the petitioner sent a legal notice dated 3.9.2015 (Annexure P-5) to respondent No.5, but all in vain. On coming to know that the said persons in connivance with the officials of Municipal Corporation were trying to get the building plan sanctioned, the petitioner moved an application dated 13.11.2015 (Annexure P-6) to respondents No.3 and 4 for not sanctioning the building plan. However, no action was taken thereon. Thereafter, the petitioner served the legal notices

dated 5.10.2016 (Annexure P-7) and dated 17.10.2016 (Annexure P-8) upon respondents No.2 to 4 for protection and fencing of the HUDA property, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent the legal notices dated 5.10.2016 and 17.10.2016 (Annexures P-7 and P-8, respectively) to respondents No.2 to 4, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.3 to take a decision on the legal notice dated 17.10.2016 (Annexure P-8), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

December 5, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No