

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

CWP No.3751 of 2014 (O&M)

Date of decision:29.9.2016

Phagwara Gate Residents Welfare Society

...Petitioner

Versus

Municipal Corporation of Jalandhar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Puneet Jindal, Sr. Advocate with
Ms.Sakshi, Advocate for the petitioner.
Mr.J.S.Toor, Advocate for respondent No.1.
Mr.R.S.Bajaj, Advocate for respondents No.3 and 5 to 16.

RAMESHWAR SINGH MALIK, J. (Oral)

CM-12267-2016

Applicant seeks permission to place on record affidavit and additional documents as Annexures P-13 (colly) and Annexures P-14 (colly).

Application is allowed, as prayed for.

CM stands disposed of.

CM-3562-2015

Application is allowed, as prayed for.

CM stands disposed of.

Main case

Feeling aggrieved against the alleged inaction on the part of respondent authorities, petitioner has approached this Court by way of instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of mandamus.

Notice of motion was issued and in compliance thereof, written statement was filed on behalf of respondent-Municipal Corporation.

Separate written statement was filed on behalf of respondents No.3 and 5 to

16. Thereafter, a status report dated 18.9.2014 was filed on behalf of respondent-Municipal Corporation.

Heard learned counsel for the parties.

Learned senior counsel, at the very outset, fairly states that a self-contained legal notice dated 14.8.2013 (Annexure P-11) was pending consideration before the Commissioner, Municipal Corporation, Jalandhar-respondent No.1, but no appropriate action was taken thereon. He further submits that petitioner may be permitted to supplement said legal notice (Annexure P-11) by issuing another detailed and self-contained legal notice or representation within a period of six weeks from today and the respondent-Municipal Corporation may be directed to consider and decide the same within a reasonable time.

Faced with the above, learned counsel for the respondents also fairly state that they would have no objection to the fair proposal put by the learned senior counsel for the petitioner.

In view of the above and without commenting anything on merits of the case, lest it should prejudice the rights of either of the parties, the Commissioner, Municipal Corporation, Jalandhar-respondent No.1, is directed that if the petitioner-society approaches to him by supplementing its earlier legal notice dated 14.8.2013 (Annexure P-11), by issuing a fresh legal notice within a period of six weeks from today, he shall consider the grievances raised by the petitioner-society and shall pass an appropriate order on the legal notice at an early date but in any case within a period of four months from the date of receipt of legal notice from the petitioner-society.

It goes without saying that the Commissioner, Municipal Corporation, Jalandhar, shall pass an appropriate order, strictly as per

building bye-laws of the respondent-Municipal Corporation, official record including the prevalent master plan and other relevant material available in this regard.

In the circumstances of the case, it would be appropriate for the Commissioner to pass an order after granting opportunity of being heard to the representative(s) of the petitioner society and would be adversely affected residents of the area. However, it is made clear that if some of the residents are found indulging in illegal activities, Commissioner of respondent-Municipal Corporation, shall ensure taking immediate appropriate action without any further loss of time.

With the above-said observations made and directions issued, the instant writ petition stands disposed of.

29.9.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No