

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

**CWP No. 429 of 2016
Decided on : 10.11.2016**

Gurpreet Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

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

PRESENT: Mr. Keshav Partap Singh, Advocate
for the petitioner.

Mr. Alok Jain, Addl. AG, Punjab.

Mr. Karanvir Singh, Advocate for
Mr. J.S. Toor, Advocate
for respondent No.4.

Mr. L.S. Sodhi, Advocate
for respondents No.5 & 6.

AJAY KUMAR MITTAL, J. (Oral)

The petitioner feeling aggrieved by the action of the respondents had initiated the proceedings under Articles 226/227 of the Constitution of India, with a prayer that a writ in the nature of *Certiorari* be issued for quashing of the order dated 05th January, 2015 (Annexure P-6) passed by the Deputy Commissioner, Ludhiana - respondent No.2, whereby, a direction had been issued to take necessary steps for filling the pit in the property of the petitioner and erection of the boundary wall/fencing. Besides, the aforesaid, a prayer has also been made for quashing of the letters/orders dated 14th December, 2015 & 18th December, 2015, appended as Annexures P-7 & P-8, respectively.

2. When the case came up for hearing on September 26, 2016,

following order was passed:-

“Learned counsel for the petitioner states that the pit falling in his land for which the tender has been invited shall be filled by the petitioner. He further submits that in case petitioner fails to do so, the State shall be at liberty to get the same filled for which the expenses shall be borne by the petitioner. Let an affidavit of the petitioner be filed in terms thereof.

Further in the additional affidavit dated 07.04.2016 filed by respondent No. 3, it has been stated that the pipe line falling in the aforesaid land is completely dysfunctional serving no purpose either for the Municipal Council or the NHAI. Learned State counsel referred to para Nos. 6 and 7 of the affidavit and submitted that the said pipe line which has been shown in blue colour in the site plan (Annexure R-4) shall be closed or it may be removed by the petitioner. Para Nos. 6 and 7 of the said additional affidavit reads thus:-

'6. That the said Pipeline is completely dysfunctional serving no purpose either for the Municipal Council or the NHAI. As per the Report now obtained from NHAI, there is a separate drain for the drainage of water from the High way and as per Report of Municipal Council, the Abadi of the village has a separate Sewerage Line and this Pipeline is not used for any purpose by either agency/department. Both the agencies/departments have submitted their no objection to the closure of the dysfunctional culvert.

7. That the exit point of the Pipeline in question will get blocked anyway in case the Petitioner is directed to fill the dug-out land. Otherwise also, Municipal Council has agreed to block the culvert, if directed to do so'.

It was submitted by learned counsel for the petitioner that permission be granted to the petitioner to raise any construction on any future date on the pit which would be

filled after approval from the Municipal Council, Khanna. It was claimed that the petitioner is entitled for refund of ₹17,29,000/- which had been deposited by him for approval of the plan in the expenditure if no construction is raised.

For the petitioner to file the necessary affidavit and further consideration, hearing is deferred to 18.10.2016.”

3. The petitioner on the last date of hearing had filed an affidavit in terms of order dated September 26, 2016, which was taken on record. In view of the consensus between the parties, it is not necessary to record any statement or to go into the detailed discussions. It was agreed by the learned counsel for the parties that they shall remain bound by the statements, which were made by them on 26th September, 2016, which was further supported by the affidavit of the petitioner filed on 18th October, 2016, in Court. Learned counsel for the petitioner also submitted that the pit shall be filled up and levelled within six months. However, it is directed that the same be done on or before 31st May, 2017, with the stipulation that in case the same is not adhered to, a penalty of ₹10,000/- on per day basis, shall be imposed upon the petitioner.

4. In view of the consensus between the parties, the writ petition is disposed of accordingly. However, in case, there is any violation by either of the parties, they shall be at liberty to apply for revival of the writ petition.

(AJAY KUMAR MITTAL)
JUDGE

(RAMENDRA JAIN)
JUDGE

November 10, 2016

J.Ram

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No