

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

COCN No.2858 of 2015 (O&M)

Date of decision: May 05, 2017

Jaswant Singh & others

...Petitioner

Versus

S.K. Makrand Pandurang & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Gunjan Mehta, Advocate for the petitioners.
Mr. Rohit Arya, AAG, Haryana.
Mr. Ramandeep Singh, Advocate for
Mr. Dinesh Arora, Advocate for respondents No.2 & 3.
Mr. Ayush Gupta, Advocate for respondent No.4.

Rajan Gupta, J.

Petitioner allege violation of order dated 09.10.2013, passed by this court. Petitioners claim to be residents of the locality, wherein certain illegal construction has been raised. Admittedly, petitioners were not party in CWP No.21876 of 2011. However, their stand is that they had right to invoke contempt jurisdiction of the court, as third parties were allowed by the writ court to bring any illegal construction to the notice of the authority.

Learned State counsel as well as counsel appearing for Municipal Council have submitted that all encroachments have been removed from the place in question. They have referred to various affidavits filed in this regard. Relevant part of affidavit dated 18.01.2017, filed by Sanjay Joon, Deputy Commissioner, Kaithal reads as under:-

“4. That from the perusal of report, it comes out that on property bearing No.463/12, there were violations and construction was raised beyond the sanctioned site plan. Therefore, excess construction as well as violation (whatever were in existence) have been demolished. Photographs showing the actual position of the construction on this property are attached as Annexure R-10.

5. That construction was raised on property No.458/12 with violations by the respondent No.04. But during inspection by the municipal staff, it was found that violation in property No.458/12 were compoundable and the owner of the property moved an application for compounding of violation by paying violation fee. His said application has been allowed by the Executive Officer, Municipal Council, Kaithal and violation made by him has been compounded. In this regard order Annexure R-11 was passed. The respondent no.4 has deposited the compounding fees.

6. That all unauthorized construction on the property No.461/12 has been got removed by the respondent no.4 which was the subject matter of CWP No.21876 of 2011 decided on 09.10.2013 and qua which order Annexure P-1 was passed. Due to non-compliance of order Annexure P-1, COCP No.2498 of 2015 was filed and in that COCP, order Annexure R-1 was passed and in compliance of that order, all construction on Property No.461/12 has been removed and this property is now free from any kind of unauthorized construction.

7. That the deponent is taking all necessary steps to ensure that the orders passed by this Hon'ble Court are complied with in letter and spirit and no provision of law or order passed by this Hon'ble Court or any other Court is violated.”

According to State counsel, order passed by the writ court has been complied with. Similar stand has been taken by the Municipal Council in affidavit dated 19.01.2017 filed on its behalf. Counsel for the petitioners disputes that entire illegal construction has been removed. On due consideration of the matter, I feel that no case for contempt is made out. It

is consistent stand of the State that order passed by the writ court has been complied with and no illegal structure now stands at the site. Still if there are certain disputed questions of facts, they can only be decided by leading evidence before the civil court. There is no ground to pass any further order in contempt jurisdiction. The petition is, thus, dismissed. Rule is discharged.

(RAJAN GUPTA)
JUDGE

May 05, 2017
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No