

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

CWP-14306 of 2017

Date of decision: 6.7.2017

Dharmesh Kamboj and ors.

..... Petitioners

VERSUS

State of Punjab and ors.

..... Respondents

CORAM: **HON'BLE MR. JUSTICE S.S. SARON**
 HON'BLE MR. JUSTICE H.S. MADAAN

Present: Mr. S.K. Choudhary, Advocate for the petitioners.

S.S. Saron, J.

The petitioners have filed the present petition for directing the official respondents to consider the request of the petitioners for restraining the private respondents i.e. respondents No.6, 7 and 8 from running a bakery factory which has been causing immense pollution of all kinds, nuisance and harassment to the residents of the area. The said request, it is submitted, is on behalf of all the residents of the area and the public at large and has been made by way of various representations specifically representation dated 17.4.2017 (Annexure P-7), A further prayer has been made for restraining the private respondents from raising further construction of the multi-complex market in the residential area of Mohalla Kaserian, District Kapurthala and also for directing the Punjab Pollution Control Board, Jalandhar (respondent No.5) to restrain the operation of the bakery factory being run by the private respondents under the name and style of M/s New Khalsa Bakery as it has not complied with the environmental laws and has been causing disturbances

and harassment to the inhabitants of the area. It is also prayed for directing the Senior Superintendent of Police, Kapurthala (respondent No.2) for ensuring the protection of life and liberty of the petitioners specially petitioner No.1 at the hands of the private respondents who it is stated are holding out threats to him.

The grievance of the petitioners is that the private respondents i.e. respondents No.6, 7 and 8 are running a bakery in the residential area, which has been a cause of nuisance. The petitioners though have filed various representations, however, no action has been taken. It is to be noticed that in the representations that have been filed, there is no mention as to what provision of law or statute was being violated so as to impel the concerned authorities to act. Section 123 of the Punjab Municipal Act, 1911 ('the Act' - for short) provides for power to prohibit such trades. Section 123 of the Act reads as under:-

123. Power to prohibit such trades. –

(1) Whenever it appears that any place registered or licensed under the preceding sections is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, the committee may, and if so required by the (State) Government shall, by notice require the occupier thereof to discontinue the use of such place, or to effect such alternations, additions or improvements as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

(2) Whoever, after any notice has been given under this section, uses such place or permits to be

used in such a manner as to be a nuisance to the neighbourhood or dangerous, or does not effect such alterations, addition or improvements, shall be punishable with fine which may extend to two hundred rupees and with a further fine not exceeding fifty rupees for every day during which the offence is continued.

The petitioners in the circumstances are in the first instance liable to approach the Municipal Committee, which has the power to remove nuisances to the neighbourhood or likely to be dangerous to life, health or property etc. and which are being caused at any place registered or licensed under the sections preceding section Section 123 of the Act.

In the circumstances, the learned counsel for the petitioners submits that for the present, he may be allowed to withdraw the writ petition and approach other authorities including the Punjab Pollution Control Board, Jalandhar (respondent No.5) by way of an appropriate and comprehensive application/notice and liberty may be granted to file a fresh petition in case their grievances are not redressed.

In the aforesaid circumstances, the writ petition is dismissed as withdrawn with liberty as prayed for.

(S.S. SARON)
JUDGE

(H.S. MADAAN)
JUDGE

6.7.2017
Brij

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No