

CWP No.15334 of 2017

[1]

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

**CWP No.15334 of 2017
Date of decision:17.07.2017**

Mahesh Pal and another ...Petitioners

Versus

State of Punjab and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Gaurav Sharma, Advocate,
for the petitioners.

Rakesh Kumar Jain, J.

The petitioners have challenged the notice dated 19.09.2011 and the order dated 24.05.2017, passed on an appeal filed under Section 225 of the Punjab Municipal Act, 1911 (hereinafter referred to as the "Act"), by which the petitioners have been asked to remove the encroachment from the municipal land.

It is alleged that Sham Lal S/o Jit Ram sold a shop to Brij Lal and his sons, namely, Sham Lal and Prem Sagar on 13.10.1981, which was 58'-2" long and 13'-6" wide, containing several rooms. Brij Lal, Sham Lal and Prem Sagar further sold the said shop vide two sale deeds dated 14.05.1982 to Om Parkash and Krishan Chand. In 1991, Om Parkash and Krishan Chand sold the said shop to Jagan Nath, predecessor-in-interest of the petitioners. It is alleged that on 19.09.2011, respondent no.3 issued a notice to Jagan Nath and the petitioners for dismantling the construction raised by them on the municipal

land. It is further alleged that the petitioners came to know about the previous litigation between the Municipal Council and their vendors, to whom a notice was issued in the year 1982, which was challenged by them by way of a civil suit for permanent injunction. The said suit was dismissed but their appeal was allowed on 10.03.1987. However, the second appeal was allowed by this Court in favour of the Municipal Council on the ground that the suit filed before the Civil Court was without jurisdiction. It is alleged that the said litigation was not within the knowledge of the petitioners but against the notice dated 19.09.2011, one of the petitioners, namely, Dharam Pal S/o Jagan Nath, father of petitioner no.1, filed the appeal, which was dismissed by the Deputy Commissioner, Sangrur, exercising the powers of the Commissioner.

Counsel for the petitioners has submitted that the petitioners are the owners of the property in question by virtue of sale deed, therefore, the notice dated 19.09.2011, issued by the Municipal Council for dismantling the construction and the order of the Appellate Authority dated 24.05.2017, dismissing their appeal, are illegal.

I have heard learned counsel for the petitioners and perused the available record with his able assistance.

The petitioners themselves have admitted before the Appellate Authority that *“it is apparently clear from perusal of case file that Mehesh Pal son of Dharam Pal himself appeared in Municipal Council, Sunam on 20.09.2011 and made written submission to the effect that it is submitted before the officials came for compliance of order passed by Hon'ble High Court according to notice no.2260 dated 19.09.2011 issued by Municipal Council, that I may be given some time to protect my honour, so that I may*

demolish the illegal construction in eyes of law within a period of one week and that I shall comply with the order passed by Hon'ble High Court". It has been further observed by the Appellate Authority that despite the assurance given by the petitioners, the illegal construction was not demolished.

Counsel for the petitioners has failed to challenge this finding, which stares in the face of the petitioners, who have themselves admitted the fact of illegal occupation of the municipal land by them.

No other point has been raised.

In view of the above, I do not find any merit in the present petition and hence, the same is hereby dismissed, though without any order as to costs.

July 17, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No