

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.27394 of 2016
Date of Decision.20.01.2017

Baldev SinghPetitioner
Vs
State of Punjab and anotherRespondents

Present: Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner has approached this Court with the following prayer and as well as with the direction to decide legal notice (Annexure P-4) to contend that the respondents have encroached upon the land owned by the petitioner and had erected the *jangla*:-

“Civil Writ petition under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of mandamus directing the respondents to remove the illegal encroachment from the plot of the petitioner and further directing them to decide the legal notice dated 05.07.2014 (Annexure P-4) within some specified time by passing a well reasoned and speaking order.

AND

For the issuance of any other appropriate writ, order or direction, as may be deemed necessary in the facts and circumstances of the present case.”

There is reference of some judgment and decree dated 28.04.1995 which was not brought on file intentionally and willfully. On the last date of hearing, this Court called upon the counsel for the petitioner to place on record copy of the aforementioned decree of the Civil Court passed in Civil Suit No.194 of 1990 on 28.04.1995. The petitioner has

passed on the aforementioned decree to this Court, photocopy of which is being retained and the original returned. In fact, the relief sought for in the writ petition has already been granted to the petitioner. The operative part of the decree reads as under:-

“It is ordered that the suit of the plaintiffs for permanent injunction, restraining the defendants, from interfering with their peaceful possession and from dispossessing them from the property, in dispute, except in due course of law, with a mandate to the defendant to remove the jangla erected, around the property in dispute within 1 ½ months from today, failing which the plaintiffs shall be entitled to remove/get the same removed in accordance with the provisions of law, is decreed. The suit of the plaintiffs, for declaration, is, however dismissed. In view of the divided success of the parties, they are left to bear their own costs.”

The petitioner had not disclosed this fact in the writ petition, though there is reference in the legal notice. The petitioner was at liberty to seek the enforcement of the decree by invoking the provisions of Order 21 Rule 32 CPC but still insisted for arguments. The writ petition is wholly misconceived and devoid of merit.

At this stage, when this Court was about to dismiss the writ petition, learned counsel for the petitioner has sought liberty of this Court for withdrawal of the writ petition.

Ordered accordingly. The writ petition is dismissed as withdrawn.

(AMIT RAWAL)
JUDGE

January 20, 2017
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No