

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

CWP No.5883 of 2015 (O&M)
Date of decision: November 09, 2017

Surjit Singh and others

...Petitioners

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. H.P.S. Ghuman, Advocate for the petitioners.
Mr. Harsimran Singh Sethi, Addl. Advocate General, Punjab.
Mr. Viney Saini, Advocate for
Mr. G.S. Nagra, Advocate for respondent No.7.
Mr. Aditya Advocate for respondents No.8 to 13.

Rajan Gupta, J.

Petitioners have prayed for issuance of a direction to the respondents to remove encroachments in village Baghana in the land of drain, as also to clean the said drain.

It has been urged before the court that necessary steps have not been taken by the authorities to remove the encroachments and to clean the drain.

Separate replies have been filed by the respondents. In the reply of State, it has been submitted that no cause of action has arisen to the petitioners. According to same, no drain exists at the site in question. There is merely depression/low line area as shown in the site plan. On a request received from the Executive Engineer, a demarcation was carried

out. It was found that there was no encroachment, whatsoever and some inhabitants were in possession of their own land.

From the above facts it is clear that stand of the petitioners and respondents is at variance. As disputed questions of fact are involved, no case for adjudication in writ jurisdiction is made out. Besides, in view of clear stand taken by the State that neither any encroachments nor a drain is existing at the site, the petition appears to be totally frivolous in nature. Same is hereby dismissed. This court is refraining from imposing costs at this stage. However, in case any such or similar petition containing similar averments, is filed by the petitioners again, it shall impose exemplary costs on them.

(RAJAN GUPTA)
JUDGE

November 09, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No