

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

Civil Writ Petition No.4 of 2017

Date of Decision: 27.03.2017

Ashwani Kumar and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mz. Anju Arora, Advocate for the petitioners.

Mr. Anant Kataria, Deputy Advocate General, Punjab
for respondent Nos.1 to 3/State.

Mr. Baltej Singh Sidhu, Advocate for respondent No.4/M.C.

JASWANT SINGH, J. (Oral)

Two petitioners, namely, Ashwani Kumar and Jasbir Singh, are joint owners in possession of Shop Nos.19 and 3, situated at Purani Sadar Chungi Market, Sri Muktsar Sahib. There is a proposal for construction of a Railway Over Bridge (ROB) on the Railway crossing of Sri Muktsar Sahib-Jalalabad road, whereupon the aforesaid shops came in the alignment of the construction of the ROB. Accordingly, the possession of the shops was to be taken and in lieu of the same, alternative shops in the old Grain Market, Sri Muktsar Sahib have been allotted. The petitioners have thus challenged the orders at **Annexures P-4, P-6 and P-7**, whereby it is ordered to surrender the possession of the shops and take the possession of the alternative shops.

The challenge is based on the ground that the possession of the shops owned by the petitioners can only be assumed by acquiring them in accordance with law.

Upon notice, short reply by way of an affidavit dated 27.03.2017 of Sh. Ravi Kumar, Executive Officer, Municipal Council, Sri Muktsar Sahib has been filed, which is taken on record. Copy of the same has been furnished to

learned opposite Counsel.

The contents of the affidavit are as under:-

“1. That the petitioners in the above noted writ petition have challenged the orders passed by the Municipal Council, Sri Muktsar Sahib whereby they have been asked to vacate the shops possessed by them for construction of ROB in question and in lieu of the said shops they have been asked to take possession of the shops allotted to them in old Grain Market.

2. That now on a demarcation conducted by the Executive Engineer, Construction Division, PWD, B&R, Sri Muktsar Sahib, it has been informed vide Letter No.11028 dated 08-03-2017 that for construction of ROB 17.90 mtr. land width is required but on Jalalabad Road at one point 17.560 mtr. Land is available. So, on that place the difference of 0.340 Mtr. has been adjusted in the drain on both sides. So, these shops do not cause any hindrance in the construction of ROB and ROB can be constructed without the removal of these shops. The shops in question do not fall in the alignment of construction of ROB. So, at this stage, no action is required to be taken against the petitioners and in case any action is required to be taken at later stage for construction of ROB, the appropriate action is required to be taken at later stage for construction of ROB, the appropriate action, against the petitioner, if any, will be taken in accordance with law. ”

(emphasis supplied)

In view of the above, it is apparent that on demarcation, it has emerged that the shops in question do not fall within the alignment line of the construction of the ROB. It is agreed that the present writ petition has become infructuous in view of the stand of the Municipal Council, Sri Muktsar Sahib.

Accordingly, the present writ petition is disposed of as infructuous.

March 27, 2017

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**(JASWANT SINGH)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>