

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

Date of decision:-6th April, 2018

COCN No.1153 of 2016(O&M)

Suneeta Sharma.

.....Petitioner.

Versus

**Sh. Mahesh Bansal, Estate Officer, GMADA, SAS Nagar, Mohali &
Ors.**

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Aman Dhir, Legal Aid Counsel along with Petitioner.

Mr. R.S. Khosla, Senior Advocate assisted by
Mr. Sarvesh Malik, Advocate for respondent nos.1 & 2.

Mrs. Ishneet Kaur, Assistant Advocate General, Punjab
for respondent no.3.

JASWANT SINGH, J.

The present contempt petition has been filed by the petitioner alleging violation of order dated 14/12/2015 passed by the Hon'ble Division Bench of this court in CWP No. 1692 of 2015 (P-1)

It is the case of the petitioner that despite directions passed by the court, whereby the respondent authorities were directed to carry out an inspection of the flat owned by the contempt petitioner i.e. House No. 4571-C MIG (S), Sector 70, Mohali however, till date no inspection has been carried out and therefore, the respondents are required to be hauled up
contempt

On the other hand, it is apparent that the stand taken by the respondent-GMADA is that in due compliance of the order dated 14th of December 2015 passed by Hon'ble Division Bench, an inspection team comprising of Senior Architect of PUDA, Assistant Town Planner from the town and country planning department and Sub Divisional Engineer was formed on 10.02.2016 and accordingly, the team went to the house in question on 25.02.2016. However, the inspection team had to return back as the house of the petitioner was found locked and therefore, the team again visited on 02/03/2016 and after thorough inspection of the site submitted its report on 16/03/2016 (A-2) to the office of Additional Chief Administrator, GMADA. Further, a perusal of the affidavit filed by the respondent-GMADA would show that necessary repairs etc have been proposed in order to rectify the problems of the residents of the society including that of the petitioner. It has been mentioned that certain violations are non-compoundable, which are required to be removed. In support of the same, the respondent-authority had placed on record the reports of the inspection committee, the proposals, notices and other relevant documents as Annexure A1 to A7. Thus, it is the assertion of the respondents that no contempt is made as the order passed by the Hon'ble Division Bench stands complied with.

I have heard learned counsel for the parties and perused the paper book with their able assistance.

It is evident from the order dated 19th of August 2016 passed by this court that a local Commissioner was also appointed by the court to assess the factual position on the spot. The local Commissioner, vide its report dated 24/09/2016 extensively mentioned about the violations which

existed in the premises in question and had also stated that it was the duty of the petitioner herself to do the necessary and routine maintenance of the premises in question, but it is apparent that the same is not been done by the petitioner.

Further, a perusal of the order passed by the Hon'ble Division Bench on 14th of December 2015 would show that the petitioner was aggrieved against the orders passed by the authorities concerned, whereby the allotment of the flat in question was cancelled on account of unauthorised/non compoundable changes made in the said flat. The court, after delving into the matter in detail, came to a conclusion that it seems to be a case of genuine difficulties of the petitioner, whereby she had to make some necessary changes in the flat in question to make it habitable. It was under these circumstances that the court came to a conclusion that the authorities concerned should take a holistic view and look into the additions/alterations made by the petitioner and compound the same as far as possible for better living condition of the contempt petitioner. However, the direction given by the Hon'ble Division Bench was to the effect that inspections have to be made by the respondent-authority.

In essence, the contempt proceedings can only be initiated in case respondent-authority had not carried out inspection of the flat in question and in no other situation. As has been observed earlier, the respondent-authority has come out with a category stand that inspection was indeed carried out by a committee consisting of three aforementioned officials and the proposed suggestions/violations were forwarded to the competent higher authority. In essence, the order passed by the Hon'ble Division Bench stands complied with. Not only this, in order to ascertain

the factual position, this court had even appointed a local Commissioner which had inspected the flat of petitioner and given its factual report regarding the existing position. Under these circumstances, while exercising the jurisdiction of contempt court, no further indulgence can be granted to the petitioner, who, has been asserting that her problems pertaining to the flat still persists. This is not the jurisdiction of the court, while exercising the powers under the Contempt of Courts Act, 1971. In case petitioner still has any other grievance, she has alternative efficacious remedy available to her.

In view of the what has been stated above, no contempt is made out against any of the respondents and consequently, the present contempt petition is dismissed.

Rule accordingly stands discharged.

(JASWANT SINGH)
JUDGE

April 6th, 2018
Vinay

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