

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-6624-2015(O&M)

Date of decision : 27.09.2018

Satish Jindal

... Petitioner

Versus

Sachin Jindal and others

... Respondents

***CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH***

Present: Mr.Anurag Jain, Advocate  
for the petitioner.

Mr. R.P.S. Ahluwalia, Advocate  
for respondents no.1 & 2.

Mr. Deepak Manchanda, Advocate  
for respondent no.4-Municipal Corporation.

**AMOL RATTAN SINGH, J.(ORAL)**

Pursuant to the order dated September 17, 2018, an affidavit of Sh.Jaibir Singh Arya, Commissioner, Municipal Corporation, Ambala, has been filed in Court today by learned counsel appearing for the Municipal Corporation, a copy of which has been given to learned counsel for the petitioner.

It is stated in the affidavit that with police help, encroachments in the area in question were removed on 24.09.2018, in support of which photographs have been annexed, a perusal of which shows that at least as regards any goods of shops, none are seen in those photographs to be on the footpath abutting the shops.

It has been further stated that e-tenders have been invited for construction of the footpath in *Halwai Bazar*, Ambala Cantt., which would

be opened on 09.10.2018.

Learned counsel for the petitioner also submits that presently there are no encroachments on the footpath in the area in question.

That being so, the impugned orders passed by the learned Civil Judge (Jr. Div.), Ambala, i.e. the trial Court, as also of the appellate Court (Additional District Judge, Ambala), are set aside with the respondents directed to ensure that no encroachment is made on the footpath in question, which direction would also naturally apply in the case of the petitioner himself.

Having held as above, the contention of learned counsel for respondents no.1 & 2 is to be taken note of; that when goods to be sold in the shop of the said respondent are to be unloaded from vehicles, they would be unloaded first on footpath and then taken inside.

That contention is rejected with it not understood as to why the goods have to be first unloaded onto the footpath and not directly into the shop itself, with the footpath stated to be about 2 ½ / 3 feet wide, even as per the Municipal Commissioner who is present in Court.

The Municipal Corporation would ensure that its carries out its duty of keeping the footpaths free from encroachments, including parking of vehicles, for which purpose, though the Superintendent of Police, Ambala, is not a party to this litigation, he/she shall also ensure that the needful is done.

It is to be noticed here that the learned Courts below had dismissed the application under Order 39 Rules 1 & 2 CPC filed by the petitioner, on the ground that any encroachment on the footpath is to be dealt with by the Municipal Corporation and not by the respondents /

defendants in the suit. Whereas that would be a fact, however it is also incumbent upon the respondents-defendants to not encroach upon the footpaths by placing any goods on it, which the petitioner and all other shopkeepers in the area would also be bound to ensure.

With the aforesaid observation, this petition is disposed of.

(AMOL RATTAN SINGH)  
JUDGE

September 27, 2018.  
*D.K./dinesh*

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|-----------------------------|--------|
| Whether speaking / reasoned | Yes/No |
| Whether reportable          | Yes/No |