

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

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CWP-17968 OF 2015

Date of Decision: 02.04.2018

RAJINDER SINGH

....Petitioner.

Versus

STATE OF HARYANA AND ORS.

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. Inder Pal Goyat, Advocate
for the petitioner.

Mr. Sandeep Moudgil, Addl.A.G., Haryana for
respondents No.1 to 10.

Mr. Karan Gupta, Advocate for
respondents No.11 to 15.

ANUPINDER SINGH GREWAL, J.

The petitioner is seeking quashing of the impugned order Annexure P-10 whereby respondent No.7 has wrongly declared Khasra No.174//19, 20 as part of regularized colony. He has also sought a direction to respondent No.1 to initiate a vigilance enquiry regarding forging of document dated 17.12.2004 (Annexure P-12) so as to declare agricultural land in Khasra No.174//19, 20 as part of regularized colony and a direction to respondents No.2, 3, 5, 7, 9 and 10 to ensure that no illegal construction activity takes place on the land in Khasra No.174/19 & 20 in Tohana City and the construction already raised is demolished and the land is restored to its original state. A further direction to the official respondents to prosecute the persons responsible for indulging in illegal construction on the land in Khasra No.174/19 and 20 in Tohana City under Section 350 A of the

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Haryana Municipal Corporation Act, 1994 for committing offences by contravening the provisions of Section 6 and Sub Section (1) of Section 7 of the 1963 Act, the provisions of Sections 346 to 350 of the Haryana Municipal Corporation Act, 1994 and Section 10 of the Haryana Development and Regulation of Urban Areas Act, 1975 and to respondents No.4 & 6 to ensure that no more sale deeds of any land in Khasra No.174/19 & 20 in Tohana City is executed and registered by the respondent No.8 by way of plotting by respondents No.11 to 15 have also been sought.

2. The petitioner is stated to be owning a joint family residential house in approved residential colony in Killa No.13, Khasra No.174 at Bhatia Nagar, Tohana. It is stated that respondents No.11 to 15 were owners in possession of agricultural land measuring two acres situated in Khasra No.174/19 & 20 in revenue estate of Tohana. The land is situated at Tehsil Bye Pass Road, Tohana. Site plan of the land bearing Khasra No.174/19 & 20 has been annexed as Annexure P-1. A public interest litigation bearing CWP No.1006 of 2007 had been filed for direction to the respondent authorities to take action against unauthorized construction, wherein by the order dated 06.03.2009, Lok Ayukta, Haryana was directed to enquire into the allegations. In compliance with the orders passed in CWP No.1006 of 2007, illegal constructions in the afore-noted khasra number were demolished on 16.03.2012. It is also stated that after the demolition of the illegal construction, illegal colony is again coming up in connivance with respondents No.11 to 15.

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3. In the written statement filed by the District Town Planner, Fatehabad on behalf of respondent No.7, the averment of the petitioner with regard to construction of unauthorized colony have been denied and it is stated that Municipal Council, Tohana by the letter dated 27.08.2013 had admitted that the khasra numbers are part of colony regularized by the Director, Urban Local Bodies. Reference has been made to the order dated 17.12.2004 in this regard. It is also stated that as the colony has been regularized, no action can be taken by respondent No.7 with regard to the construction raised therein.

4. In the written statement filed by the Municipal Council, Tohana, it is stated that as per the original record, Khasra No.174//13, 19, 20 are part of the regularized colony and the Municipal Council has sanctioned the building plans for the land falling within the afore-noted khasra numbers in the year 2011-2012 and 2012-2013. A reference has been made to Section 203 A of the Haryana Municipal Act, 1973, which empowers the State Government to regularize, in public interest, a building in any area falling within the jurisdiction of the municipal area. With regard to the order dated 17.12.2004, whereby the construction has been regularized, it is submitted that only those unauthorized colonies shall be considered for regularization where construction has taken place on more than 50% of the plots with adequate development. It has been denied that in pursuance to the directions issued in CWP No.1006 of 2007, decided on 06.03.2009 that constructions raised in khasra No.174//19, 20 were demolished as it had already been regularized.

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5. At this juncture, learned counsel for the petitioner has seriously disputed the averment of the respondents that illegal construction, which had been earlier demolished in pursuance to the order of the Court, was not part of Khasra No.174//13, 19, 20.

6. Be that as it may, as the respondents have categorically stated that the construction in the afore-noted khasra numbers had been regularized in the year 2004 and no demolition had been carried out in any part thereof in pursuance to the order of the Court, we are of the considered view that it would be difficult to decide such a disputed question of fact in the exercise of writ jurisdiction.

7. Therefore, the petitioner would be at liberty to adopt alternative remedy in accordance with law including approaching the civil Court for redressal of his grievances.

8. The petition stands disposed of.

(AJAY KUMAR MITTAL)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

02.04.2018

SwarnjitS

Whether speaking/reasoned :	YES/NO
Whether reportable :	YES/NO