

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.24318 of 2018
Date of Decision: 24.09.2018

Shri Niwas Petitioner

Vs.

The State of Haryana and others Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Surinder Gandhi, Advocate, for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed for seeking a writ in the nature of mandamus to direct respondents No.1 to 3 to decide both the legal notice and representation of the petitioner dated 9.7.2018. The petitioner has prayed only for a direction to respondents No.1 & 2 to initiate legal action against respondents No.3 to 9 who have demolished his house on 17.5.2018.

Learned counsel for the petitioner has submitted that the petitioner was the owner in possession of the house in question from the time of his forefathers. The petitioner had to file Civil Suit No.700 on 6.6.1992 against some residents of the village who were trying to interfere in his possession. The said suit was decreed and the defendants therein were restrained from interfering and dispossessing the petitioner from the house in question. The petitioner then filed Civil Suit No.542 in 1997 against the State of Haryana through its Collector and Sub Divisional Officer, PWD (B&R), Haryana seeking a decree for permanent injunction in respect of the same house. The said suit was also decreed on 26.5.1999 restraining the defendants therein

from interfering and dispossessing the petitioner and also dispossessing him from the land marked as ABCED in the site plan.

Learned counsel for the petitioner has submitted that on 17.5.2018, respondents No.3 to 9 have forcibly demolished the house of the petitioner and therefore, he has served representation and legal notice to respondents No.1 to 3. He has thus prayed that respondents No.1 to 3 may be directed to decide his legal notice & representation dated 9.7.2018.

I have heard learned counsel for the petitioner and after perusing the record with his able assistance, am of the considered opinion that the writ petition is not maintainable. Once, there is a decree of permanent injunction in favour of the petitioner against the Deputy Commissioner dated 26.5.1999 which according to him has attained finality, the petitioner has a remedy under Order 21 Rule 32 of the Code of Civil Procedure, 1908 for execution of the decree in case the impugned action has been taken by the Deputy Commissioner. However, if the impugned action has been taken by the other respondents for demolishing the house of the petitioner, the petitioner should have gone to the Civil Court for filing a suit for repossessing the property in dispute and may have also filed a suit for damages but writ, in any case, is not maintainable even by making a representation or serving legal notice to the respondents.

Dismissed.

(RAKESH KUMAR JAIN)
JUDGE

24.09.2018

Vivek

Whether speaking /reasoned : Yes/No
Whether Reportable : Yes/No