

CWP no. 8998 of 2018 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP no. 8998 of 2018 (O&M)

Date of Decision : 16.04.2018

Shri Nafe Singh Rathee and others

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE ANIL KSHETARPAL

Present : Mr.M.L.Sharma, Advocate for the petitioner(s)

MAHESH GROVER, J.(ORAL)

This writ petition has been preferred by number of petitioners alleging that the private respondents are in unauthorized occupation of Government land and have started raising construction thereon. It has been alleged that there is indeed a sale deed in their favour but not qua the land on which they are raising construction after fraudulently getting the site plan sanctioned from the municipal authorities.

Learned counsel for the petitioners has vehemently argued that such a course is impermissible and matter being of public importance also found its resonance in the Legislative Assembly. To highlight his point, he has contended that during the Assembly session construction was stopped but started instantaneously upon its conclusion. Learned counsel for the petitioners contends that it is a fit case where this Court should exercise its jurisdiction under Article 226 of the Constitution of India, particularly, when representation made by him in this regard to the authorities concerned has

failed to elicit any response.

We have heard learned counsel for the petitioners and are of the opinion that certain disputed questions of fact manifest themselves from the petition. Whether the private respondents have a sale deed and have encroached upon an area beyond their entitlement is an issue which may throw up assertive claims and counter denials. We would, therefore, refrain from interfering in the matter under Article 226 of the Constitution of India but leave it open to the petitioners to approach the civil Court in this regard , if so advised. Even otherwise we are of the opinion that since a representation has been made in this regard on 26.12.2017 which is still pending with the competent authority, it would be appropriate if such a dispute involving public land is looked into by the said authority, particularly, when it flows from a responsible person of the status of an erstwhile member of the Legislative Assembly. We, therefore, deem it appropriate to dispose of the instant petition with liberty to move the civil Court if so advised and with a mandate to the official respondents to look into the representation (Annexure P-9) as expeditiously as possible but not later than four weeks from the date of receipt of the certified copy of this order.

Disposed of in above terms.

(Mahesh Grover)
Judge

16.04.2018

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Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

(Anil Kshetarpal)
Judge