

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

LPA No.1242 of 2018

Date of decision: 26.10.2018

Manohar Lal

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Sandeep Jain, Advocate for the appellant.

KRISHNA MURARI, C.J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed by the appellant-petitioner challenging the order dated 05.07.2018 passed by the learned Single Judge disposing of the writ petition filed by him challenging an order dated 05.06.2017 passed by Station House Officer, Kotwali-Nabha, District Patiala placing restraint upon the appellant-petitioner to raise any new construction.

The genesis of passing of the above-said order is an order dated 16.11.2010 passed by this Court in CWP No.19395 of 2010, wherein there was a dispute with respect to Mehantship between the petitioner and the private respondents herein. Vide order dated 16.11.2010, the Sub Divisional Magistrate/Executive Magistrate, Nabha were directed to ensure that petitioner of the said writ petition (appellant herein) is not dispossessed in an unlawful manner.

Learned counsel for the appellant submits that since the constructions are very old and dilapidated, and required some repairs urgently, which has been undertaken, all of a sudden on an application made by the private respondents, Station House Officer passed the order dated 05.06.2017, which was impugned in the writ petition. He further submits that the SHO has passed the order misreading the order dated 16.11.2010 passed by this Court to be an order of status quo, whereas the order was only in respect of protecting the dispossession of the petitioner-appellant. It is further submitted that the learned Single Judge has failed to appreciate this aspect of the matter and though deleted the words “*Till the decision of the Hon’ble High Court, no new constructions be raised.*” from the order dated 05.06.2017 passed by the SHO, but in the operative portion of the order he himself directed that there shall be no liberty to the petitioner (appellant herein) to raise any kind of construction as the status quo order is still operative. Even, learned Single Judge has misread the order dated 16.11.2010 to be an order of status quo as regards the constructions.

Prima facie, after having gone through the order dated 16.11.2010 passed in CWP No.19395 of 2010 (Annexure P17), we are of the opinion that the said order only related to the protection of possession of the petitioner-appellant till pendency of that writ petition. There is no order of status quo in respect of the constructions. On being confronted with the observation that if at all the petitioner (appellant herein) should be allowed to raise constructions and the order of the learned Single Judge requires interference, it was submitted that on account of dilapidated condition of the constructions, which may fall any time, urgent repairs are required and the

order will stand in the way of the appellant in carrying out the necessary repairs.

Be that as it may. In such a situation, we modify the order of the learned Single Judge dated 05.07.2018 to the extent that in case repairs of any kind is required to be made by the appellant, it shall be open to do so after making an application in the pending writ petition bearing CWP No.19395 of 2010 and obtaining appropriate orders therein, and the order passed by the learned Single Judge dated 05.07.2018 impugned in this appeal shall not stand in the way of the appellant in doing so.

With the aforesaid observation and directions, the appeal stands finally disposed of, however, since this order has been passed without putting the private respondents to notice, their right to seek variation, modification or clarification of the order, in case they feel aggrieved, is being kept reserved.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

26.10.2018
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO