

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

CWP No.21946 of 2019

Date of Decision :22.08.2019

Urmilla Aggarwal and another

.....Petitioners

Versus

Union of India and others

..... Respondents

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

Present : Mr.Kanwaljit Singh, Sr. Advocate with
Mr. A.D.SJattana, Advocate for the petitioners.
Mr. Arun Gosain, Advocate for UOI.
Mr. Atul Nanda, Advocate General, Punjab with
Mr. Avinit Avasthi, AAG, Punjab.

KRISHNA MURARI, CHIEF JUSTICE (Oral):

Petitioner has approached this Court by seeking following main
reliefs:-

“(i) For the issuance of writ in the nature of certiorari and thereby for setting aside the order guised as notice dated 26.11.2018, Annexure P-11, issued by the respondent No.7 which has been issued under Section 195, 195-A of the Punjab Municipal Act, 1911, by invoking the notification dated:13.01.2010, Annexure P-15, issued under Section 3 and 7 of the Work of Defence Act, 1903, Annexure P-3, which notification has expired as it has a time period of 3 years only under Section 9 of the Work of Defence Act of 1903 and also for the fact that the respondent No.7 has no powers or the jurisdiction to invoke the provisions of Work of Defence Act of 1903 and thereby declare buildings built by the landowners after having taken permissions and duly

sanctioned the site plans, Annexure P-2, having paid the requisite fee and also for the fact that the respondent No.7 has accepted the property tax paid vide receipt, Annexure P-21 Colly;

(ii) For the issuance of a writ in the nature of mandamus and thereby ordering respondents to decide the legal notice dated: 01.10.2018, Annexure P-7, as well as the reply dated:10.12.2018, Annexure P-12, replied to the order dated:26.11.2018, Annexure P-11, of under the Punjab Municipal Act, 1911, despite the fact that no notification had been issued by the respondent No.1 empowering the respondent No.7 to take recourse to the Work of Defence Act, 1903, and the said provisions are being invoked without paying compensation as would be required by way of an Award under Section 12 after the notices are issued under Section 3 thereof;

(iii) For the issuance of a writ, order or direction to the respondents, specifically respondent No.7 not to demolish the duly approved constructed houses of the petitioners without deciding the legal notice dated: 01.10.2018, Annexure P-7 as well as the reply dated: 10.12.2018, Annexure P-12 as given to the order/notice dated:26.11.2018, Annexure P-11, and to provide adequate time to the petitioner to enable the petitioner to take further recourse of appeal/revision/writ, as provided under law, so as to challenge the speaking order which would be required to be passed by the respondent No.7”.

Admittedly, the constructions are within the 100 meter periphery of the Chandigarh International Airport. It is also not disputed that a notice under the Punjab Municipal Act was issued earlier which was challenged by way of filing a writ petition wherein a statement was made

that the notice shall be withdrawn during the course of the day and the fresh notice would be issued giving sufficient time to file a reply and thereafter a decision would be taken. Equally undisputed is the fact that a subsequent notice dated 26.11.2018 was issued under Section 195 read with Section 195-A of the Punjab Municipal Act.

Learned Senior counsel for the petitioners submits that a detailed reply to the said notice has already been filed and no decision till date has been taken thereon but since there was a newspaper reports about carrying out demolition which has made him rush to this Court.

Notice of motion.

Mr. Arun Gosain, Senior Panel Counsel accept notice for UOI and Mr. Atul Nanda, Advocate General, Punjab assisted by Mr. Avinit Avasthi, AAG, Punjab for State of Punjab. Learned Advocate General, Punjab has made a statement before us that the demolition would not be carried out except in accordance with law after following the due procedure.

In view of the assurance given by the learned Advocate General, Punjab we see no cause of action left to the petitioners to continue this petition any further and the same accordingly stands disposed of.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

22.08.2019

Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No