

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-1006-2020

Date of Decision:-31.01.2020.

Som Singh and another

.....Petitioners

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. A.D.S. Jattana, Advocate for the petitioners.

Mr. Avinit Avasthi, AAG, Punjab, for respondent No.1.

Ms. Kavita Arora, Advocate for respondent Nos.2 and 3.

Mr. Aashish Chopra, Advocate and

Ms. Gurpreet Randhawa, Advocate for respondent Nos.4 & 5.

SANJAY KUMAR, J. (Oral)

Ms. Kavita Arora, learned counsel, entered appearance on behalf of respondent Nos.2 and 3 and filed her memorandum of appearance. The same is taken on record.

Mr. Aashish Chopra, learned counsel, entered appearance on behalf of respondent Nos.4 and 5 and filed power of attorney of respondent No.4 and memorandum of appearance on behalf of respondent No.5. The same are taken on record.

The petitioners filed this writ petition under Order 1 Rule 8 CPC, seeking quashing of the No Objection Certificate dated 11.10.2019 (Annexure P-8) issued by the authorities in relation to construction of a

residential area.

Significantly, the petitioners did not disclose the fact that they, along with others, already filed Civil Suit bearing No.1051 of 2019 before the learned Civil Judge (Senior Division), Sunam, in relation to the establishment of the very same mobile tower. It appears that, by order dated 10.12.2019, the trial Court refused an *ex parte ad interim* injunction in the said suit. This writ petition was filed on 10.01.2020. As stated *supra*, no mention was made therein of either the filing of the suit or the order passed therein, refusing an *ex parte ad interim* injunction. Such suppression clearly amounts to abuse of process in the light of the law laid down by the Supreme Court in ***K.D. Sharma v. SAIL* [(2008) 12 SCC 481]**. In this regard, the Supreme Court stated as under:-

‘..... As per settled law, the party who invokes the extraordinary jurisdiction of this Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play “hide and seek” or to “pick and choose” the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of writ courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification..... If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the Court, the Court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the Court does not reject the petition on that

ground, the Court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of Court for abusing the process of the Court.'

The writ petition is accordingly dismissed on the ground that it amounts to a gross abuse of process. However, in the circumstances obtaining, there shall be no order as to costs.

(SANJAY KUMAR)
JUDGE

January 31, 2020.

Sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.