

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

239

**CRWP-7949-2020
Date of Decision : 11.12.2020**

Mohd. Rahmatulla and othersPetitioners

Versus

State of U.T. Chandigarh and othersRespondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vimal Kumar Gupta, Advocate
for the petitioners.

Mr. J.S. Toor, Addl. Public Prosecutor
for U.T. Chandigarh for respondents No.1 to 3.

None for respondents No.4 to 7.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioners have filed the present petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus for directing respondents No.2 and 3 to protect their life and liberty from harm at the hands of respondents No.4 to 7 and for directing respondent No.2 to decide the representation dated 25.09.2020.

Briefly stated the petition has been filed, inter alia, on the averments that petitioner No.1 purchased a plot from respondent No.4 in the year 2002 and constructed his house on the same in the year 2003. Since then petitioner No.1 is continuously living with his family in the said house. Respondents No.4 to 7 as well as their agents and musclemen are continuously interfering in the peaceful possession of petitioner No.1 over the same. On 24.09.2020 respondents No.4 to 7 along with musclemen came to the house of the petitioner and forcibly tried to dispossess him and his family members from the same. The petitioner approached the police but no action has been taken against respondents No.4 to 7.

Pursuant to notice, reply by way of affidavit of Sh. Ranjodh Singh, SHO, Police Station Sector 36, U.T. Chandigarh has been filed on behalf of respondents No.1 to 3 in the Registry which is taken on record.

However, none has appeared on behalf of respondents No.4 to 7 today despite due service.

In his affidavit Sh. Ranjodh Singh, SHO, Police Station Sector 36, U.T. Chandigarh has denied the averments as to approaching of the police by the petitioners and inaction on the part of the police and inter alia, submitted that on 23.09.2020 at around 5:30 p.m. information regarding the dispute near Masjid, Village Kajhari was received and DDR No.30 dated 23.09.2020 was recorded. On the same day at around 10:30 p.m. an application was moved by respondent No.4 and on his application DDR No.50 dated 23.09.2020 was also recorded. The officials of respondents No.1 to 3 conducted the composite inquiry qua both the DDRs and recorded the statements of both the parties. The dispute is between respondent No.4-father-in-law and petitioner No.1-son-in-law over a plot which dispute is of a civil nature and no criminal offence has been committed by any party. During the pendency of the present petition on 05.11.2020 petitioner No.1 submitted an application to the Chowki Incharge that respondent No.4 along with other persons attacked and caused injuries to petitioner No.1. On the above-said application FIR No.208 dated 08.11.2020 was registered under Sections 147, 148 and 323 read with Section 149 of the Indian Penal Code, 1860 at Police Station Sector 36, Chandigarh.

Learned Additional Public Prosecutor for U.T. Chandigarh has submitted that appropriate steps would be taken in accordance with law to protect the life and liberty of the petitioners as may be required by the facts and circumstances.

The factual position referred to in the affidavit of Sh. Ranjodh Singh, SHO, Police Station Sector 36, U.T. Chandigarh is not disputed by learned Counsel for the petitioners who has submitted that the petition may be disposed of in view of the assurance given by the learned Additional Public Prosecutor, U.T. Chandigarh.

In view of the above, no further action is required to be taken on the petition, which is disposed of accordingly.

However, it is clarified that in case of apprehension of any danger by the petitioners from respondents No.4 to 7, the petitioners shall be at liberty to make appropriate representation to respondents No.2 and 3 who shall take appropriate action, as may be warranted by threat perception and facts and circumstances prevailing, for protection of their life and liberty. Needless to say that in case of any inaction on the part of police, the petitioner shall be entitled to move this Court for restoration of this petition and also to avail other remedies available to them including the remedy of filing complaint before the Judicial Magistrate having jurisdiction in accordance with law.

(ARUN KUMAR TYAGI)
JUDGE

11.12.2020
Kothiyal

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