

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

Date of decision: 03.02.2020

1) CWP-40368-2018 (O & M)

Baljinder Singh and ors. Petitioner(s)

V/s

GMADA and ors. ...Respondent(s)

2) CWP-40604-2018 (O & M)

Jagmeet Singh Petitioner(s)

V/s

GMADA and ors. ...Respondent(s)

3) CWP-30730-2018 (O & M)

Sukhvir Singh and ors. Petitioner(s)

V/s

State of Punjab and ors. ...Respondent(s)

4) CWP-32240-2018 (O & M)

Joginderjit Singh Sidhu Petitioner(s)

V/s

State of Punjab and ors. ...Respondent(s)

5) CWP-33448-2018 (O & M)

Guru Teg Bahadur Khalsa Senior Secondary School and anr. Petitioner(s)

V/s

State of Punjab and ors. ...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Charanpal Singh Bagri, Advocate, CWP-40368 & 40604
and Mr. S.P.S. Khaira, Advocate (CWP-32240, 33448 & 30730)
for the petitioners.

Mr. Suveer Sheokan, Addl.A.G., Punjab.

Mr. R.S. Khosla, Sr. Advocate,
with Mr. Sarvesh Malik, Advocate for the respondent-GMADA.

Ms. Sonia Madan, Advocate,
for Mr. Mahender Joshi, Advocate, for the respondent-NHAI.

Mr. Gagandeep Singh Simble, Advocate
for respondent No.5-UOI (in CWP-40604 and 40368).

RAJAN GUPTA, J. (Oral)

This order shall dispose of aforementioned five writ petitions. For brevity, facts have been taken from this case i.e. CWP-40368-2018 wherein petitioners have posed a challenge to notices issued under Sections 79 and 143 of the Punjab Regional and Town Planning and Development Act, 1995 (hereinafter to be referred as PUDA Act, 1995) stating that construction of the petitioners falls within no construction zone and is liable to be demolished. Their representation has, thus, been rejected and they were asked to remove the unauthorized constructions immediately, failing which, coercive action shall be taken forthwith. The relevant Para of the order dated 04.12.2018 passed by Additional Chief Administrator, GMADA, reads as under:-

“8. The present applicant Sh. Baljinder Singh has constructed dhaba in the name style of ‘Captain Dhaba’ in village Pohlo Majra without taking permission for Change of Land Use and without getting building plan sanctioned from the office of Senior Town Planner, S.A.S. Nagar. Thus, it is in violation of Section 79 and Section 143 of Punjab Regional and Town Planning and Development Act, 1995 and it also falls under No construction Zone and is liable to be demolished.

In view of the facts circumstances explained above, the claim of the land owner/violator is without any basis and logic and hence the same is rejected after due consideration and further directed to vacate and remove the unauthorized

construction immediately, otherwise action for the demolition of these un-authorized structures will be taken forthwith”.

Learned counsel for the petitioners have vehemently urged that there is no master plan notified by the GMADA for the area, in question. The Additional Chief Administrator, GMADA is, thus, not authorized to invoke Section 79 and 143 of the PUDA Act, 1995 to direct the demolition of the construction raised by the petitioners.

On a query being put to Mr. Khosla, learned counsel representing GMADA, he fairly submits that local planning area has not been extended after 30.06.2018 though a communication to this effect has been sent to the Government. On the statement made by Mr. Khosla, this court has no option but to infer that there is no master-plan under Section 70 or regional planning area as per Section 56 of the PUDA Act for the area, in question, wherein construction has been raised by the petitioners. He has, however, pointed out that the construction may violate certain provisions of different statutes such as the Punjab Scheduled Road & Controlled Area Restriction of Unregulated Development Act, 1963 and the Punjab Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1964.

In the instant petitions, however, we are called upon to deal with the order passed by Additional Chief Administrator, GMADA and the action proposed to be taken pursuant to directions given in the order reproduced above. We are of the considered view that in view of the conceded position that there is neither master-plan nor regional planning area is notified for the land, in question, the order passed by the Additional Chief Administrator, GMADA is unsustainable in law. Same is

authorities which may find that the construction is in violation of some other provisions. They shall be at liberty to act as per law. Allowed in these terms.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

February 03 2020
sukhpreet

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