

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

CWP No. 93 of 2021

Date of decision : 4.3.2021

Suraj Bhan Chauhan

.... Petitioner

versus

State of Haryana and others

... Respondents

**Coram: Hon'ble Mr. Justice Jaswant Singh
Hon'ble Mr. Justice Sant Parkash**

Present Mr. Raman B. Garg, Advocate, for the petitioner.
Ms. Shruti Jain Goyal, Deputy Advocate General, Haryana.

[The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court.]

Jaswant Singh, J. (Oral)

Petitioner – Suraj Bhan Chauhan was held entitled for specific performance of the agreement to sell dated 7.1.2005 to the extent of land measuring 18 kanals 1 marla vide judgment and decree dated 1.8.2017 (**Annexure P-3**). Out of this land, respondent no. 7- Sunil Nagar, was inducted as owner to the extent of 8 kanals vide order dated 7.12.2017, whereafter sale-deed dated 28.2.2018 (**Annexure P-4**) was executed in his favour. It is alleged by the petitioner that mutation pursuant to sale-deed (**Annexure P-4**) was not entered in the revenue record by the revenue authorities as the total land available in the name of vendors – Ashok Kumar Mittal, etc. was only 16 kanals 15 marlas.

It is further alleged by the petitioner that Patwari concerned, in connivance with respondent no. 7, recorded mutation to the extent of 9 kanals 7 marlas in favour of the petitioner and 7 kanals 8 marlas in favour of respondent no.7. It is the case of the petitioner that he is yet to take symbolic possession as the learned Executing Court is yet to sanction mutation in favour of the petitioner for want of his consent to get lesser land. It is also conceded case that the partition of the joint *khata* is yet to take place.

According to the petitioner, in the meanwhile, respondent no. 7 started carving out plots for the purpose of colonisation besides raising unauthorized construction on the land in question. Upon this, the petitioner moved representation before police authorities with regard to the aforesaid illegal activities being carried out by respondent no. 7, besides instituting a petition under 156(3) Cr.P.C.

Now it is the grievance of the petitioner that pursuant to his complaint, respondent no. 6- the then DTP, Faridabad, issued notice to the petitioner as well and thereafter, Respondent no.5- the present DTP, Faridabad, vide report dated 7.12.2020 (**Annexure P-1**) recommended to lodge FIR against the petitioner as well as respondent no. 7 on the ground that both are co-sharers in the joint holding. Prayer in the present writ petition is *inter alia* to quash the report dated 7.12.2020 (Annexure P-1) made by respondent no. 5 in so far as it attributes illegal / criminal acts of Respondent no. 7- Sunil Nagar, to the petitioner. Further prayer of the petitioner is for directing the official respondents to demolish/ dismantle the unauthorised colony carved out by respondent no. 7 – Sunil Nagar, in Village Nachouli, District Faridabad.

Vide order dated 6.1.2021, this Court had directed the learned State counsel to seek instructions as to the legality of any action being maintainable against a co-sharer, who has not committed any illegality. In response thereto, on 9.2.2021, it was informed by learned State counsel on instructions from Mr. Rajender T. Sharma, District Town Planner (Enforcement), Faridabad, that upon fresh inquiry no role of the petitioner has been found into the said illegalities and that the matter was pending consideration before DTP, Faridabad for further and proper necessary action.

Written statement dated 2.3.2021 of District Town Planner, Enforcement, Faridabad, on behalf of respondent nos. 1, 2, 5 and 6 stands filed wherein in para no. 6 it is *inter-alia* stated that no documentary evidence or any revenue documents have been provided either by investigating agency or by respondent no. 7 whereby it can be established that the petitioner has committed the offence of carving out any colony or showing any indulgence of the petitioner in the sale purchase of plots in the said colony.

It has further been mentioned in the written statement that the revenue documents depicting the alleged sale purchase of plots in the said colony are being got verified from the Revenue Authorities and fresh recommendations for lodging of FIR against the offenders responsible for carving out the unauthorized colony at the site in question will be made.

At the time of hearing, learned State counsel submits that the complaint *qua* the petitioner has been withdrawn. She further submits that the action initiated against respondent no. 7- Sunil Nagar for carving out unauthorised plots/ colony, shall be taken to its logical end.

In this view of the matter, since substantial compliance with regard to the prayers made by the petitioner has been made, no further adjudication in the matter is required.

Disposed of as infructuous.

(Jaswant Singh)
Judge

4.3.2021
vs

(Sant Parkash)
Judge

Whether speaking/ reasoned	Yes/No
Whether Reportable	Yes/No