

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 655 of 2021

Date of Decision: 28.09.2021

Karambir Singh

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sawan Chaudhary, Advocate
for the petitioner(s).

Mr. Samarth Sagar, Additional Advocate General,
Haryana, for respondent No.1 and 2.

Mr. Deepak Manchanda, Advocate
for respondent No.3.

Mr. Jai Bhagwan Sharma, Advocate
for respondent No.4.

Anil Kshetarpal, J.

1. The petitioner prays for issuance of a writ in the nature of certiorari to quash the impugned notice dated 22.12.2020 directing the petitioner to demolish the illegal encroachment in front of the Shop No. 110.

2. The petitioner is a tenant under the Municipal Committee, Safidon in the Shop No. 110. On the request of the petitioner, to extend his shop, the Municipal Committee passed a resolution permitting the petitioner to take over 6 feet of the land, which is primarily a part of the road berm. The aforesaid resolution is stated to have been cancelled by the Government on the recommendations of the Municipal Committee. The petitioner does

3. The learned counsel representing the petitioner contends that the petitioner has already spent a fortune in raising the Class-I construction. He further contends that the immediate neighbour of the petitioner has also in the same way encroached upon the certain part of the road berm.

4. The road berm is for maintaining the wideness/broadness of the road and for facilitating the movement of the pedestrians. The petitioner, at the most, can be said to be in permissive possession of the extended area without creating any right in his favour. As a general rule, once the resolution permitting the petitioner to extend the shop has been cancelled, the permission itself ceases to exist. Furthermore, on a perusal of the photograph, it is evident that the building of the petitioner is dangerously located adjacent to the electricity transformer. Mr. Deepak Manchanda, Advocate, appearing for the respondent No.3, has submitted that the government proposes to take similar action against the neighbour.

5. Keeping in view the aforesaid facts, the petitioner is permitted to remove the unauthorized construction within a period of one month.

6. With the observations made above, the present writ petition is disposed of.

(Anil Kshetarpal)
Judge

September 28, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No