

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 11728 of 2021 (O&M)

Date of Decision: 04.08.2021

Dilbag Singh and Others

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Deepak Verma, Advocate
for the petitioner(s).

Ms. Kanica Sachdeva, Assistant Advocate General,
Punjab, for respondent No.1 to 6.

Mr. Abhilaksh Gaind, Advocate
for respondent No.7.

Anil Kshetarpal, J.

CM-9272-CWP-2021

Application is allowed, as prayed for. Reply, filed on behalf of
respondent No.7, is taken on record.

CM-10195-CWP-2021

Application is allowed, as prayed for. Replication to the reply
filed by respondent No.7 is taken on record.

CWP-11728-2021

Through this writ petition, the petitioners pray for issuance of a writ in the nature of mandamus so as to restrain respondent No.7 from throwing garbage in and around the area of khasra No. 72, which is adjacent to the abadi of village Fatehpur Kalan. The petitioners claim that the Municipal Council, Garhshankar, throws garbage in their land.

judgment dated 26.03.2015, passed by the Additional Civil Judge (Senior Division), Garhshankar, in a suit for injunction filed by one Malkiat Singh.

3. The petitioners have also relied upon certain photographs, annexed with the petition, showing dumping of garbage.

4. On notice of motion, respondent No.7 has filed reply bringing to the notice of the Court that the judgment, relied upon by the petitioners, has been set aside by the first Appellate Court vide judgment dated 26.05.2016. It has further been stated that the dumpsite, falls in khasra No. 149, is owned by the Municipal Council and the said site is in accordance with the Solid Waste Management Rules, 2016. It has further been submitted that efforts are being made to follow the requirements of the Rules framed.

5. Thus, there is a fundamental dispute between the parties as to whether the garbage has been dumped in the land comprised in khasra No. 72 or 149.

6. Keeping in view the aforesaid facts, the writ petition involves a disputed question of fact. Still further, the petitioners have not filed the writ petition with clean hands. The judgment relied upon by the petitioners stood set aside in the year 2016. However, the petitioners chose to conceal the same from the Court. Hence, the writ petition is disposed of with liberty to the petitioners to avail the alternative remedy, if so advised.

(Anil Kshetarpal)
Judge

August 04, 2021

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No