

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

CWP No.14149 of 2021 (O&M)

Date of Decision:30.07.2021

Gagan Chhabra

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE VIVEK PURI**

Present:- Petitioner in person.

TEJINDER SINGH DHINDSA J. (Oral)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Petitioner appears in person.

He claims himself to be the owner in possession of residential house No.6116, Green Meadows, DLF City, Phase IV, Gurugram.

Instant writ petition has been filed pertaining to a construction activity that has taken place on the adjoining site/plot bearing No.6115.

The precise prayers raised in the instant petition are to the following effect:-

“In view of what has been stated hereinabove, it is most respectfully prayed that this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case:

A. Issue an appropriate Writ, Order or Direction specially in the nature of Mandamus, directing Respondents No. 1 to 8 to immediately ensure stoppage of all construction activities at Site/Plot No.6115, Green Meadows, DLF City, Phase-IV, Gurugram.

B. Issue an appropriate Writ, Order or Direction specially in the nature of Mandamus, directing respondents No.1 to 8 to immediately take actions as per law against the Respondents No.9 to 15 as per law.

C. Direct Respondents No.2 or any other State Machinery to provide protection of the petitioner or his family members and ensure that no harm is caused to their lives.

D. Direct the Government Authorities/Respondents No. 1 to 7 to take all actions as may be permissible under the law to not only get the Damaged Residential House of the petitioner (6116 Green Meadows DLF City Phase IV, Gurugram) reconstructed and repaired/renovated in every respect after getting the assessment carried out through the Government Approved Architects/Structural Engineers and also get reimbursement of all costs and expenditure which the petitioner is incurring on his own in emergency mode as of now to protect his residential house from collapsing and saving the lives of his family members, from the private respondents No.9 to 15.

E. Direct, respondent No.3 MCG to not to issue any Occupation Certificate in respect of the site/plot No.6115, Green Meadows,

DLF City, Phase-IV, Gurugram and further direct respondent No.6 SDM Gurugram and respondent No.7 SDM, Badshahpur, Gurugram to not to permit transfer/registry of any built up/semi built up property/portion of the said property to any person, whatsoever during the pendency of the present writ petition before this Hon'ble Court.

F. That the requirement of filing of certified/typed copies of annexures P-1 to P-14 may kindly be dispensed with.

G. That the costs of the petition may be awarded in favour of the petitioner.

H. That the requirement of serving advance notice of petition upon the respondents may be dispensed with.

I. Pass any other appropriate Writ, Order or directions as this Hon'ble High court may deem fit and proper in the facts and circumstances of the present case, in the interest of justice.”

Petitioner has been heard at length and pleadings on record have been perused.

Essentially the case projected by the petitioner is that by virtue of the construction activity that took place in the adjoining site/plot No.6115, building/structure of the petitioner has been extensively damaged.

During the course of hearing a specific query has been put to petitioner as regards the stage of construction at present in Plot No.6115.

Petitioner has been very candid and fair in conceding that as of date

basement, ground/stilt parking and slabs for the two floors above have been laid. Apparently, it seems that the damage that has occurred in the building/structure of the petitioner, if any, was at the stage when the basement in the adjoining plot bearing No.6115 was being dug up.

At this stage, petitioner has invoked the extraordinary jurisdiction of this Court seeking a restraint on all construction activity at site No.6115 i.e. the adjoining site. We repeatedly put to the petitioner as to whether the construction activity being carried out in the adjoining site is after having procured the requisite permission (s) and after sanction of the building plans from the concerned authorities.

Even though the response to such query is not carried in the pleadings on record but petitioner submits that it would be presumed that the builder/developer/owner of plot No.6115, must have taken all necessary and requisite permissions. He, however, has hastened to add that even if permissions had been granted still it did not grant a license to the Builder to undertake construction activities in such manner that the building of the petitioner is damaged.

In view of such admission made by the petitioner that the construction activity in the adjoining site was after necessary permissions having been accorded, prayer in the instant petition to issue an embargo for further construction activity cannot be accepted.

If that be so the prayer made in the instant petition to issue an embargo for further construction activity, cannot be accepted.

The other prayer that has been vehemently pressed by the petitioner is to direct the concerned Government authorities/respondents

herein to get the damaged residential house of the petitioner, reconstructed, repaired, renovated in every respect and after getting the assessment of the damage caused through Government approved Architects/Structural Engineers and also for the petitioner to be reimbursed of the entire cost/expenditure that he has incurred on his own for protecting his residential house from collapse.

We have no hesitation in observing that such a prayer is essentially for award of damages.

In our considered view this is an aspect which ought to be raised by the petitioner, if so advised, before the appropriate forum.

It is not an issue that we are inclined to enter into in a writ petition filed under Article 226 of the Constitution of India.

For the reasons recorded above and while declining to intervene in the instant petition, we dispose of the same in terms of granting liberty to the petitioner to avail of his alternate remedies in accordance with law.

(TEJINDER SINGH DHINDSA)
JUDGE

(VIVEK PURI)
JUDGE

July 30, 2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No