

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 22291 of 2020

Date of Decision: 06.04.2021

Harpal Singh

... Petitioner(s)

Versus

Union of India and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Inderjit Sharma, Advocate
for the petitioners.

Mr. Satya Pal Jain, Senior Advocate
with Mr. Ashish Rawal, Advocate
for respondent No.1.

Mr. Ashish Kapoor, Advocate
for respondents No.2 and 3.

Ms. Maloo Chahal, Deputy Advocate General,
Punjab, for respondents No. 5 to 8.

Anil Kshetarpal, J.

On 29.01.2021, the following order was passed:-

“CM-1062-CWP-2021

Application is allowed, as prayed for.

The hearing of writ petition is preponed to today.

CWP-22291-2020

Learned counsel for the petitioner contends that the District Manager, Gurdaspur, had passed an order on 17.07.2020 refusing to grant “No Objection Certificate” for the following reasons:-

“1. Proposed plan showing distance from buffer strip

10.06 mtr. from the right way of the PWD Department.

- 2. The carriage way 6.70 mtr. Road.*
- 3. Side drain not shown in the proposed plan property.*
- 4. This road is main road leading towards the other adjoining district of Punjab State.*
- 5. This road has been notified as a scheduled road vide Govt. letter No. 8/2/2001-4HG-1/14429 dated 23/12/2004 and as per Govt. Notification No. 12/23/2019-3BR-3/1402253 dated 24/01/2019 for which construction within 30 mtr. from the right way of the PWD is prohibited in the eyes of law”.*

He contends that after the Indian Oil Corporation brought to the notice of the District Manager that such objections are not tenable, vide letter dated 13.08.2020, a fresh request for “No Objection Certificate” has been rejected for the following reasons:

- “1) Property line has been shown at distance of 9.09 meter from the boundary of PWD and culvert has also been marked at distance of 9.09 meter which was required to be shown on the boundary of PWD.*
- 2) As per allotment of IOC, size of the plot is 30x35 meter whereas the size of plot in the drawing is 30x44.09 according to PWD boundary which is not correct”.*

Learned counsel for the petitioner contends that

first objection is with regard to a clerical error, which would be corrected.

He further contends that second objection is with respect to the size of the plot. He submits that the petitioner is the owner of a plot, which is larger in the size than the required and therefore, this cannot be a ground for rejection of “No Objection Certificate”. This order has been passed by the District Magistrate, Gurdaspur.

Notice of motion for 02.03.2021.

On the request of the Court, Ms. Maloo Chahal, Deputy Advocate General, Punjab accepts notice on behalf of respondents No. 5 to 8. Mr. Ashish Rawal, Advocate, accepts notice on behalf of respondent No.1 and Mr. Ashish Kapoor, Advocate,, accepts notice on behalf of respondent No.2. They pray for time to file reply.

Let notice to respondent No. 9 & 10 be issued through dasti process only”.

Mr. Mohammad Ishfaq, IAS, Deputy Commissioner, Gurdaspur, has attended the hearing of the case today through video conference and submits that the petitioner has already submitted a revised plan and now he has removed all the objections. He informed the Court that the petitioner is required to submit an application for grant of “No Objection Certificate” to the Forest Department.

Mr. Inderjit Sharma, Advocate, appearing for the petitioner, has submitted that the necessary application to the Forest Department has been

submitted online.

Mr. Mohammad Ishfaq, Deputy Commissioner, assures the Court that the authority will pass a fresh order after taking a pragmatic view of the matter.

Keeping in view the aforesaid facts, the writ petition is disposed of with the direction to the respondents to take a decision positively within a period of two weeks from today.

(Anil Kshetarpal)
Judge

April 06, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No