

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

Sr. No.122

CWP No.1479 of 2022

Date of Decision : January 31, 2022

Paramdham Nau Gaja Peer Baba

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Sameer Sachdeva, Advocate,
for the petitioner.

Mr. Raghujeet Singh Madan, Advocate,
for the Caveator.

SUDHIR MITTAL, J. (ORAL)

The petitioner has challenged notice dated 14.12.2021 (Annexure P-22) on the ground that in an earlier litigation between the parties the property in dispute has been held to be '*old grant*' and thus, the petitioner cannot be held to be an encroacher.

The judgment passed in the earlier proceedings between the parties is on record as Annexure P-20. It was passed in CWP No.885 of 2017 titled as ***Paramdham Nau Gaja Peer Baba vs. State of Haryana and others*** decided on 03.12.2021. A perusal of this judgment shows that the State had submitted affidavits that the property in dispute was '*old grant*' and according to the record of the Cantonment Board it was in the name of Government of India. Thus, the writ petition was disposed of without commenting upon the title leaving it open to the concerned authority to proceed in accordance with law.

Thus, notice dated 14.12.2021 has been issued.

Learned counsel for the petitioner submitss that the property has been held to be '*old grant*' and thus, the impugned notice dated 14.12.2021 is without jurisdiction.

Learned counsel for the Caveator submits that no finding regarding title has been given and the NHAI is competent to proceed in accordance with law.

The judgment dated 03.12.2021 specifically mentions that no finding regarding title is being given, however, it records that the State authorities have submitted affidavits showing the property in dispute to be '*old grant*'. It is, thus, evident that relevant record is available with the concerned authorities and not with the petitioner. Thus, the petitioner needs to be given adequate time to produce the necessary documents. No final order shall be passed without permitting the petitioner to obtain the necessary record and produce the same and without following the procedure prescribed by the Control of National Highway (Land and Traffic) Act, 2002.

The writ petition is accordingly disposed of. The petitioner shall be given another four weeks time to produce the necessary record and thereafter, proceedings shall be conducted in accordance with law.

January 31, 2022

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No