

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

138

CWP-2207-2022

Date of decision: 07.02.2022

BALBIR PAL DANDYAN

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Sunil Chadha, Sr. Advocate, with
Mr. Akshay Chadha, Advocate
for the petitioner.**

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The petitioner prays for issuance of a writ in the nature of certiorari to quash the order dated 06.01.2022 and consequential proceedings dated 07.01.2022, demolishing the structure of the petitioner. The dispute in the present case is with regard to the alleged encroachment on the street by the petitioner.

Some area of village Maheshpur has come within the limits of Municipal Corporation, Panchkula. It is the stand of the Municipal Corporation, Panchkula, that the petitioner and various other persons have encroached upon the passage.

It is not in dispute that the demolition pursuant to the order Annexure P-13, dated 06.01.2022, has already been carried out.

This Bench has heard the learned senior counsel representing the petitioner at length and with his able assistance perused the paper book.

On a Court question, the learned senior counsel representing the

petitioner contends that the petitioner does not have any effective alternative remedy. He submits that there is sufficient evidence to conclude that the demolished part of the structure existed on the land belonging to the petitioner.

Having heard the learned senior counsel representing the petitioner, at some length, this Court is of the considered view that the matter cannot be appropriately decided in a writ petition. On the one hand, the Municipal Corporation claims that the demolished part of the structure is a part of the street, whereas on the other hand, the petitioner claims that such area is in his exclusive ownership. Thus the question which requires adjudication is as to whether the petitioner is the owner of the land underneath the demolished structure or not? Such a question, in the considered opinion of this Court, cannot be decided unless the parties are permitted to lead evidence.

Moreover, as per sub-Section (2) of Section 261 of the Haryana Municipal Corporation Act, 1994, an appeal is maintainable against the order of demolition.

With these observation, the writ petition is disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

February 07, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No