

CWP-12250-2022

Date of Decision: 31.05.2022

Raj Kumar

....Petitioner

VS

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Baldev Singh Dhillon, Advocate
for the petitioner

SUDHIR MITTAL, J. (Oral)

The petitioner filed CWP-(PIL)-178-2021 alleging that respondent No. 6 had constructed shops in violation of the lease deed executed in its favour by the Municipal Committee, Ladwa and that despite a resolution having been passed by the Municipal Committee to take appropriate action, nothing was being done. It was also his grievance that land of the *Johar* had been illegally leased out to respondent No. 6. Vide order dated 30.11.2021, the writ petition was disposed of with a direction to take a decision upon legal notice dated 16.08.2021 submitted by the petitioner. The said legal notice has been decided vide speaking order dated 09.04.2022. This order is under challenge in this writ petition.

Two issues are involved in this case -

(i) Whether respondent No. 6 was granted 99 years lease without taking permission from the Deputy Commissioner;

(ii) Whether non-implementation of resolution dated 21.05.2018 passed by the Municipal Committee, Ladwa was malafide.

Regarding the first issue, learned counsel for the petitioner submits

that finding that permission of the Deputy Commissioner was granted vide

communication dated 06.01.1976 is illegal because information was sought under the Right to Information Act, 2005 and reply has been received that the said communication does not relate to the office concerned. Thus, it is evident that letter dated 06.01.1976 referred to in the impugned order is a figment of imagination.

The argument cannot be accepted as information was sought under the Act from the Municipal Committee, Ladwa. The letter dated 06.01.1976 has been issued by the then Deputy Commissioner Kurukshetra, thus, the relevant office would have been the office of the Deputy Commissioner. If the office of the Deputy Commissioner had given a similar reply the argument would have possessed merit but as of now the same can not be accepted.

Regarding the issue of non-implementation of resolution dated 21.05.2018, suffice to say that there appears to be laxity on the part of the Municipal Council. However, before any action could be taken respondent No. 6 has filed a civil suit and the same is pending adjudication. Thus, the Administrator, Municipal Committee, Ladwa was justified in returning a finding that final action would abide by the decision of the aforementioned suit. No pre-emptive action can be taken. Being a defendant, the Municipal Committee can file a counter claim and a separate suit need not be filed.

In view of the above, the writ petition has no merit and is dismissed.

31.05.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No