

COCP-1546-2016

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2023:PHHC:051515

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

**COCP-1546-2016 (O&M)
Date of decision: 13.04.2023**

Sumit Mangla

... Petitioner

Vs.

Rajat Aggarwal and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rakesh Bhatia, Advocate
for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

Mr. M.S. Batth, Advocate
for respondent No.3.

Mr. A.K. Bazaz, Advocate
for respondent No.4.

Mr. Kulwant Singh, Advocate
for respondents No.5 & 6.

ARVIND SINGH SANGWAN, J. (ORAL)

The petitioner alleges violation of the order dated 17.01.2012
passed in CWP-1299-2009, vide which general directions were issued

regarding removal of unauthorized possession over public property.

Learned counsel for the petitioner submits that as per these directions, the authorities like Municipal Corporations, Improvement Trusts, Punjab Urban Development Authority, Greater Ludhiana Area Development Authority and Greater Mohali Area Development Authority etc. were directed that if any illegal encroachment is found on the public land, necessary action be taken with regard to the same. It is further submitted that respondents No.5 & 6 have illegally constructed a house on the land, which is owned by the Improvement Trust, therefore, they have committed the contempt by violating the directions.

Separate replies have been filed by the respondents. In the affidavit of Deputy Commissioner, Ludhiana dated 10.09.2019, a report dated 16.08.2019 is attached regarding execution of the sale deed of a Govt. land in favour of respondents No.5 & 6 and it is stated that an area measuring 242 square yards was sold to them and a two-storied house is constructed at the spot, however, it is noticed as per report of the Tehsildar, Ludhiana that the sale deed was executed out of khasra No.12//4/9 regarding 242 square yard, but as per existing record, respondents No.5 & 6 are owners of 181-1/2 square yard of land and they are in possession of excess land measuring 38-1/2 square yard.

Learned counsel for respondent No.4 submits that as per scheme of the improvement, area is transferred only for the purpose of maintaining roads, street lights, water services and sewerage etc. and there is no control of

the Municipal Corporation over the land, which is either sold by Improvement Trust to the private persons or is lying vacant.

Learned counsel for respondents No.5 & 6 has submitted that they have constructed a house in the year 2013 as per the sanctioned site plan and no one raised any objection.

It is worth noticing that in para No.8 of the judgment, following observations are made: -

“However, such a tendency cannot legitimize continuation of these contempt proceedings for an indefinite period nor will it be expedient to add some more petitions to the docket with a fact finding task to determine several disputed questions of facts arising in one or the other case. The contempt jurisdiction need not be exercised to decide on merits whether a particular site is a ‘public property’ and/or it has been encroached upon or is in unauthorized occupation save as to prevent injustice. Since the very foundation of these proceedings rests upon ‘public interest’ hence the element of pro bono too is vital to discourage the settlement of personal scores.”

In view of the observations made in the judgment dated 17.01.2012 that when several disputed questions of facts arise in one or the other case, then contempt jurisdiction need not be exercised.

Even in case respondents No.5 & 6 are found to be in possession

of excess of the land purchased by them, remedy lies with the Civil Court.

In view of the above, I find no willful disobedience of the aforesaid directions.

Dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

13.04.2023
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No