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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCP-2618-2016 (O&M)
Date of decision: 20.03.2023

Gurbaksh Singh and others

... Petitioners

Vs.

D.S. Dheshi and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Hamid Hussan, Advocate
for the petitioners.

Mr. Manish Dadwal, AAG, Haryana.

Mr. B.R. Mahajan, Sr. Advocate with
Ms. Chhavi Sharma, Advocate
for respondent No.3.

ARVIND SINGH SANGWAN, J. (ORAL)

The petitioners allege violation of the order dated 26.04.2016
passed in CWP-7605-2016, vide which following directions were issued: -

*“Having heard learned counsel for the petitioners and
considering the nature of relief sought by them, we dispose of this
writ petition without expressing any views on merits, with a
direction to the Deputy Commissioner, Panchkula as well as the*

Commissioner, Municipal Corporation, Panchkula to ascertain the correct facts and if it is found that the public property has been encroached upon, let necessary action in accordance with law and principles of natural justice, be taken against the encroachers within a period of three months from the date of receiving a certified copy of this order.”

Learned counsel for the petitioners submits that the respondents have not implemented the order, as they have not removed the encroachment from the spot.

An affidavit of Commissioner, Municipal Corporation, Panchkula was filed on 06.10.2017 and a list of unauthorized occupants is attached with it and the action is taken against them. It is stated that some of the unauthorized occupants have filed civil litigations, where stay has been granted. Thereafter, the petitioners filed a rejoinder to the said affidavit alleging that there is still unauthorized occupation of many persons and officials of Municipal Corporation, Panchkula are hand in gloves with them.

In compliance of the order dated 01.04.2019, a status report was filed by way of affidavit of Commissioner, Municipal Corporation, Panchkula on 18.07.2019 stating that notices under Section 408A (1) of Haryana Municipal Corporation Act, 1994 were issued to the encroachers and some of the encroachers produced the documents regarding ownership of the property and some were allotted by the Gram Panchayat in lieu of sterilization operation

scheme and some of them produced the evidence regarding regular water and electricity bills and house tax receipts. It is further stated that Municipal Corporation, Panchkula under Swachh Bharat Mission guidelines has provided mobile toilet van/sanitation facilities to the residents at the spot including slum dwellers. It is also stated that Municipal Corporation, Panchkula is exploring the rehabilitation scheme for some of very poor persons.

Thereafter, fresh affidavits were sought vide order dated 04.01.2023 and in compliance thereof, affidavits of Deputy Commissioner, Panchkula and District Municipal Commissioner, Panchkula dated 17.03.2023 have been filed in the Court today. In the affidavit of Deputy Commissioner, Panchkula, it is stated that on 24.02.2023, 28.02.2023 and 03.03.2023, encroachment removal drive was proposed by appointing the Duty Magistrate and providing sufficient police force and thereafter, Tehsildar, Kalka and BDPO, Pinjore were appointed as Duty Magistrates for maintaining law and order. It is further stated that Municipal Council, Kalka has removed the encroachment on 28.02.2023 and 03.03.2023 from 20 acres of MC land as well as 10 acres of MC land respectively, as per compliance reports (Annexures R-4 & R-5).

In the affidavit of District Municipal Commissioner, Panchkula, similar stand is taken that encroachment removal drive was held on 28.02.2023 and encroachment was removed from 20 acres of MC land along the boundary line of Village Rampur Seuri and Village Rajjipur falling in the area of

Municipal Council, Kalka and fencing along with the said area is done. It is further submitted that on 03.03.2023, encroachment from 10 acres of MC land was also removed and fencing was done. An undertaking is given that trespassers will be prosecuted, if in future, any such encroachment is done.

Learned senior counsel for respondent No.3-Municipal Corporation, Panchkula submits that in future, necessary action will be taken, if any complaint comes with regard to unauthorized occupation.

In view of the above, finding that due compliance has been made, present petition is rendered as infructuous.

[ARVIND SINGH SANGWAN]
JUDGE

20.03.2023
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No