

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

LPA No. 99 of 2021
Date of Decision: 17.02.2023

Suman Sharma

.....Appellant(s)

Versus

State of Punjab and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Karan Sharma, Advocate,
for Mr. D.S. Kahlon, Advocate,
for the appellant.

Ms. Deepali Puri, Addl. A.G., Punjab.

Mr. Hardik Ahluwalia, Advocate,
for Mr. A.S. Manaise, Advocate,
for respondent Nos.6 to 8.

G.S.SANDHAWALIA, J. (Oral)

Consideration in the present Letters Patent Appeal is to the order dated 07.01.2021 passed by the learned Single Judge in CWP No. 21060 of 2020. The learned Single Judge has dismissed the writ petition wherein the prayer was for restraining the private respondents who were interfering in the installation of the mobile tower in her vacant plot in village Raj Parura, Tehsil and District Pathankot. Accordingly, protection of life and personal liberty of the writ petitioner and her family members was sought for and issuance of a writ in the nature of prohibition from restraining the private respondents or anybody else in interfering in the installation of the mobile tower was sought.

The learned Single Judge came to the conclusion that the authorities were under no duty to assist the petitioner in the installation of mobile tower in her property if there was a private dispute. It was held that

neither there were any specific *mala fides* pleaded and the Station House

Officer had not been impleaded by name and nor any MLA has been shown as a party respondent. It was further held that directions were being sought to take legal action against the private respondents and, therefore, there were contradictory prayers. However, liberty was given to the writ petitioner for seeking an appropriate remedy available to her in law as per due procedure.

A perusal of the paper book would go on to show that apparently there is some vacant land available next to the house of the petitioner whereby she wished to install the Airtel Mobile Tower and had entered into an agreement with the said operator for a period of 15 years. Permission was only taken from the Panchayat as such for issuance of No Objection Certificate and none was taken from the district administration and apparently it was objected to by the neighbours as such. Eventually, it would be clear that the said operator also cancelled the said agreement, which would be clear from the communication dated 08.01.2021 (Annexure P-10), that they were terminating the business arrangement and removing the equipment on account of the objections raised by the neighbours.

Even otherwise, we are of the considered opinion that the learned Single Judge is well justified in relegating the petitioner to her remedies in accordance with law since it was a dispute of private nature as such and she was at liberty to seek an injunction against the persons who were interfering in her possession. It is not for the writ Court as such to exercise jurisdiction as there was no such issue regarding any question of law being raised or any matter regarding the dispute pertaining to want of jurisdiction. Keeping in view that there is an alternative and efficacious remedy available, we are of the considered opinion that the learned Single Judge was well justified in not exercising his extra ordinary writ jurisdiction for the alleged enforcement of

the private rights of the petitioner.

Resultantly, we do not find any ground to interfere in the order dated 07.01.2021 passed by the learned Single Judge. The present appeal is accordingly dismissed.

(G.S. SANDHAWALIA)
JUDGE

17.02.2023
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(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No