

In the High Court of Punjab and Haryana at Chandigarh

**CWP No. 7623 of 2019
Date of Decision: 13.1.2023**

Sukhbir

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Ms. Mannat Anand, Advocate
Legal Aid Counsel for the petitioner.

Mr. Raman Sharma, Addl. A.G., Haryana.

Mr. Vikram Singh, Advocate
for respondents No. 11 and 12.

SURESHWAR THAKUR, J.

1. The Civil Writ Petition No. 7623 of 2019 was disposed of by this Court, on 7.5.2019, on the ground that an affidavit had been instituted by the Block Development, and, Panchayat Officer, Samalkha on 2.5.2019, with echoings therein, that the efforts for the ordered removal of the encroachments occurring on the panchayat land, could not be completely enforced, owing to the eruptions of law and order problem(s), at the instance of the encroachers concerned. Therefore, on 7.5.2019, this Court became constrained to order, that the requisite police help for the relevant purpose be elicited, and, also a further direction was made, upon the jurisdictional SHO to register an FIR against the encroachers concerned.

2. Be that as it may, the above order was strived to be undone through the aggrieved encroachers concerned, moving an application

bearing No. RA-CW-267-2019 in CWP No. 7623 of 2019 with theirs claiming therein, that since the basic order as made by the Collector concerned, on 18.9.2015, hence directing the removal of the encroachments, as occurring on the panchayat land, and, as raised by the encroachers concerned, and, which had resulted in the institution of the writ petition (supra), before this Court, rather has not acquired finality and conclusivity, given the said order becoming successfully challenged before the appellate authority concerned, and, thereafter an order of remand becoming made by the competent appellate authority concerned, to the remandee Court, with a direction to re-inspect the premises in the presence of the affected parties, and, subsequently pass a speaking order, in accordance with law, with respect to the encroachments being made upon apposite sites concerned.

3. Though, thus it appears that the order made by this Court, on 7.5.2019, has been obtained by suppressing the above material fact, and, though this Court would deem it fit to make certain stringent observations against the litigant concerned, but this Court relents from doing so, as it appears that the completest instructions with respect to the successful challenge to the order of 18.9.2015, did not become conveyed, by the litigants concerned to their learned counsel(s) concerned.

4. Be that as it may, since the order strived to be enforced before this Court, through the institution of the writ petition (supra), is still subjudice before the Appellate Authority. Therefore, the writ petition does not survive. In sequel, the writ petition is permitted to be withdrawn.

5. However, liberty is reserved to the writ petitioner to, as and when a decision adversarial to them is recorded by the learned remandee Court concerned, to thereupon canvass the legally permissible remedies.

6. It is also open to the respondents concerned, to draw an appropriate motion, in accordance with law, for making a challenge to the registration of the FIR, if any, against them in pursuance to a decision recorded by this Court on 7.5.2019, and, may be on the ground that the said order has been subsequently recalled through drawings of an order of 14.12.2022.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

January 13, 2023
Gurpreet

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