

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

275

CWP-8971-2019

Date of Decision: November 21, 2023

Ashwani Kumar and others

.....Petitioner(s)

Vs.

State of U.T. Chandigarh and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. G.S. Jaswal, Advocate for the petitioner(s).

**Mr. L.S. Virk, Advocate
for respondent No.1-UT, Chandigarh**

**Mr. Gaurav Mohunta, Advocate and
Mr. Rishabh Jain, Advocate for respondents No.2 and 3.**

RAJESH BHARDWAJ J. (ORAL)

The present petition has been filed for issuance of writ in the nature of Certiorari for quashing of Notices all dated 01.02.2019 issued by respondent No.2 whereby charges for removal of encroachment from Municipal land have been imposed upon the petitioners by the respondents illegally and without ascertaining encroachment, giving any notice of violation to the petitioners regarding encroachment on any land of Municipal Corporation, which falls just in front of the houses of the petitioners and is being properly kept cleaned and well maintained in the shape of green area for the last more than two decades to give beautiful look to said area at their own expenses.

2. Counsel for the petitioners has vehemently submitted that the Recovery Notices in this case have been issued to the petitioners without issuing the prior notice of demolition.

3. Counsel for respondent No.2 opposes the submission made by the counsel for the petitioner and submits that same is factually incorrect. Prior notices were issued to the petitioners for removal of illegal encroachment failing which it was informed that respondent no.2 would take necessary action for demolition. He has submitted that once the petitioner failed to demolish illegal encroachments, then respondent No.2 has taken requisite action, which is totally in accordance with law. He submits that recovery notices have been issued thereafter. He has strongly opposes the maintainability of the petition on the ground that notices were issued and the petitioner instead of approaching respondent No.2 directly approached before this Court and the factual dispute cannot be decided in the writ jurisdiction.

4. After hearing counsel for the parties and on perusing the record, this Court finds that given the nature of issue involves and the dispute in question, the petitioners have remedy of approaching respondent No.2 for redressal of their grievances.

5. In view of the above, the present petition is disposed of with liberty to the petitioners to approach respondent No.2 and file their objections in response to the impugned notices issued to them. Once the petitioners would file their objections within two weeks from today then respondent No.2 would deal with the same and decide the case of the petitioners by passing a speaking order within two months thereafter.

6. Till the decision of the grievance raised by the petitioner, no recovery shall be effected by respondent No.2 from the petitioner.

(RAJESH BHARDWAJ)
JUDGE

November 21, 2023
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Whether speaking/reasoned: Yes/No
Whether reportable: No