

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

(107+238)

**CM-11000-CWP-2023 in/and
CWP-10326-2023 (O&M)
Decided on: 13.07.2023**

Poonam Aggarwal

....Petitioner

Versus

The Haryana Shehri Vikas Pradhikaran & others

.... Respondent

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

Present: Mr. Baltej Singh Sidhu, Sr.Advocate
with Mr.Chandan Singh, Advocate, for the petitioner.

Mr.Deepak Sabherwal, Advocate, for respondent Nos.1 & 2.

Mr.A.K.Chopra, Sr.Advocate
with Mr.Gagandeep Singh, Advocate, for respondent No.3.

G.S. Sandhawalia, J. (Oral) :-

CM-11000-CWP-2023

Application for placing on record reply to CM-9777-CWP-2023, for vacation of stay application along with Annexure P-9, is allowed, in view of the averments made in the application. Said documents are taken on record. Office to append the same at appropriate place.

CM stands disposed of.

CWP-10326-2023 (O&M)

1. While issuing notice in CM-9777-CWP-2023, the application for vacation of stay, we had directed respondent No.3 to deposit a sum of Rs.10 lakhs with the Registrar General of this Court. The applicant-respondent No.3 had deposited the said amount by way of cheque. Resultantly, the order dated 06.07.2023 could not be complied with as the cheque could not be encashed since it was in the name of the petitioner.

The applicant-respondent No.3 has now furnished a demand draft of the same amount in favour of the petitioner drawn on HSBC Bank dated 07.07.2023.

2. Keeping in view the fact that the petitioner had claimed that damage is being caused to his house bearing No.344, Sector 7, Panchkula on account of adjoining construction in house No.345, Sector 7, Panchkula and the cost of repair would be Rs.5.5 lakhs to Rs.6 lakhs, as per the report dated 28.04.2023 (Annexure P-8). In the short reply filed by respondent Nos.1 and 2 today, reference has also been made to the said report and it has been averred that respondent No.3 has been directed to carry out the repair work in the house of the petitioner on account of cracks both horizontal and vertical. Reliance by counsel for the petitioner is also on the subsequent report dated 10.07.2023 (Annexure P-9) wherein he has now assessed the loss at a higher rate to the extent of Rs.8,97,500/- + taxes for just closing the gaps.

3. Considering the fact that a draft has already been furnished in favour of the petitioner for Rs.10 lakhs, we are of the considered opinion that it would suffice at this point of time and put an end to this litigation since construction is yet to be completed by respondent No.3. As per notice also issued, apparently by the respondent-authority on 20.03.2023 (Annexure R-2), there has been damage to the house of the petitioner and the conditions mentioned in the building plan also is that the owner of house No.345 would be fully responsible for the damage caused to house No.344 and would bear the loss.

4. In such circumstances, we are of the considered opinion that tentatively the amount deposited by respondent No.3 are sufficient to

amount would be due at the end of the construction to put the house of the petitioner in liveable condition and restore to its original position. The same is a matter of evidence and therefore, it is always open to the petitioner to take recourse to the remedy available to him in accordance with law.

5. Accordingly, we dispose of the writ petition by directing that the demand draft of Rs.10 lakhs be given to Registrar General, to be given to the petitioner through his counsel, after proper identification and the cheque of Rs.10 lakhs earlier furnished will be returned to respondent No.3.

6. It is made clear that we have not observed on the merits of the loss which cannot be quantified in writ proceedings. Parties are free to avail their remedy available to them, in accordance with law. All pending application(s) also stand disposed of.

7. Needless to say that the building raised by respondent No.3 shall comply with all the prescribed conditions of building plan sanctioned and nothing would stand in the way of respondent No.3 to get the completion certificate at the end of the construction if all the conditions stand completed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

13.07.2023
Sailesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No