

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-11520-2023

Date of decision : 25.05.2023

R. Saggi

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.P.K.Mutneja, Senior Advocate with
Mr.Brijesh Kumar, Advocate and
Mr.Abhishek, Advocate
for the petitioner.

Mr.Ferry Sofat, Addl.A.G. Punjab
for respondents no.1 and 2.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondents no.2 to decide the representation dated 11.04.2023 (Annexure P-14) and 17.05.2023 (Annexure P-17) in accordance with law.

2. Learned senior counsel for the petitioner has submitted that as per provision of Section 246-A of the Punjab Municipal Corporation Act, 1976 “in short “the Act”), no person is entitled to encroach upon any land, premises which is a public place or vests with the Corporation or to raise a temporary or permanent structure thereon. It is submitted that the petitioner has given a detailed representation dated 17.05.2023 in which he has brought to the notice of the Commissioner, Municipal Corporation, Jalandhar that the private respondents have encroached upon the street

leading up to the house of the petitioner by making concrete steps measuring 20' X 110' and also by creating Cesspits/Haudis. It is further submitted that the petitioner would be satisfied in case respondent no.2 is directed to consider the representation dated 17.05.2023 in a time bound manner and if, after considering the same, is of the opinion that appropriate action is to be taken against private respondents, then the same be taken as expeditiously as possible.

3. Learned State counsel, on the other hand, has stated that as per the order dated 24.10.2012 passed by the Commissioner, Municipal Corporation, Jalandhar, the Municipal Corporation has not declared the place in question to be a street and thus, the area, from which removal is sought, would not fall within the ambit of Section 246-A of the Act. It is however submitted that respondent no.2 would not have any objection in considering the representation dated 17.05.2023 in accordance with law within a period of one month from the date of receipt of certified copy of the order and in case the Commissioner, Municipal Corporation, Jalandhar is of the opinion that the pleas raised by the petitioner are meritorious, then appropriate action in accordance with law would be taken after giving opportunity of hearing to respondents no.3 and 4.

4. Keeping in view the above said facts and circumstances, the present petition is disposed of with a direction to respondent no.2 to consider the representation dated 17.05.2023 within a period of one month from today and in case, after considering the said representation, respondent no.2 is of the opinion that the pleas raised by the petitioner are meritorious, then appropriate action, in accordance with law, be taken against respondents no.3 and 4 after giving due opportunity of hearing to

raised by the petitioner are meritless, then the same be rejected by passing a speaking order within a period of six weeks from today.

5. It is made clear that this Court has not opined on the merits of the case and respondent no.2 would consider the representation independently, in accordance with law.

(VIKAS BAHL)
JUDGE

May 25, 2023
Davinder Kumar

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