

2023:PHHC:066802

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCN No.2096 of 2019 (O&M)
Date of decision: 09.05.2023

Humanist Welfare Society (Regd.)
.....Petitioner
Versus
Parminder Singh Gill and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rakesh Bhati, Advocate
for the petitioner.

Ms. Kavita Arora, Advocate
for respondents No.1 and 2.

Mr. Ashok Bazaz, Advocate
for respondents No.3 to 5.

ARVIND SINGH SANGWAN J.

The petitioner alleges violation of the order dated
29.01.2019 passed by the Writ Court.

Brief facts of the case are that the petitioner is a registered
society and had filed the writ petition with the allegation that the
residents of Kitchlu Nagar in Ludhiana, which is a residential property
is being used for commercial purposes and therefore, the said activity
be stopped.

The petitioner filed CWP-PIL No.24 of 2019, which was
disposed of on 29.01.2019 by passing the following order:-

*“The petitioner is a non-governmental organization
and purports to have approached this Court in public
interest.*

2023:PHHC:066802

The limited grievance that the petitioner has is that certain residents in Khitlu Nagar, Ludhiana, are using their residential premises for commercial activities. It is urged that pursuant to a complaint/representation submitted by the petitioner, the Improvement Trust, Ludhiana had even issued notices to those residents but the matter has not made any tangible progress since then.

Learned counsel for the petitioner submits that let this petition be disposed of, at this stage only, with a direction to the respondents to consider and deal with its grievance within a specified time.

In the wake of the above and without commenting upon the merits of the case, we dispose of this petition with a direction to the respondents that if indeed a representation dated 09.07.2018 (Annexure P/2) as indicated in the petition, is pending consideration, the same shall be dealt with and appropriate orders, in accordance with law, shall be passed, after affording an opportunity of hearing to all the stakeholders, within a period of eight weeks from the receipt of the certified copy of this order.”

The petitioner allege that despite giving a notice, no action is taken by the respondents.

Separate reply by way of affidavit of the Chairman, Improvement Trust, Ludhiana, on behalf of respondents No.1 and 2 as well as the Municipal Town Planner, Municipal Corporation, Ludhiana, on behalf of respondents No.3 to 5, are on record.

As per the reply filed by the Chairman, it is stated that in the representation of the petitioner, it is stated that the owners of House Nos.1 to 16 of Kitchlu Nagar, Ludhiana, are undertaking commercial

2023:PHHC:066802

activity in their residential houses. It is further stated that 100 acres development scheme known as Kitchlu Nagar, was framed by the Improvement Trust, Ludhiana and the lands/plots carved out and allotted by the Trust under the Punjab Town Improvement (Utilization of Lands and Allotment of Plot) Rules, 1975.

It is also stated that later on, the scheme was handed over to the Municipal Corporation, Ludhiana for maintenance as per the Notification dated 12.03.1985.

It is further stated that on 04.09.2018, the Municipal Corporation, Ludhiana, has passed a Resolution for declaring the roads of Kitchlu Nagar as commercial and the plot owners of House No.1 to 16 are situated on the said road. It is stated that the matter is now pending with the Department of Local Government, Punjab.

Counsel for the respondents have submitted that the State of Punjab, is not a party and as and when the decision of the government is intimated further action will be taken.

As per the affidavit of the Municipal Town Planner, it is stated that on receiving the representation the owners of Plot No.1-D to 16-D, Kitchlu Nagar were immediately issued notices to stop the commercial activity. In para 4 of this affidavit, it is submitted as under:-

“4. That in the compliance of the Hon’ble High Court order dated 29.01.2019, Annexure P-5, after service of notice dated 17.07.19 on all the impugned property owners and others, a meeting was convened by the respondent No.3 on 22.07.19, in which, the area councillors, the impugned property owners, respondent No.4 and the respondents No.1 and 2 were also present,

2023:PHHC:066802

the representation of the petitioners dated 09.07.18 was considered and in the light of the interalia office report 16.07.19 that roads with minimum width of 18 meters qualify for declaration as “Commercial” and the width of road ranges in between 60 feet to more than 100 feet and that as per section “C” - “Identification of mixed use area in existing Urban area and urbanisable area”, of the Master plan of Ludhiana, the mixed land use (except industrial use) is permissible on all streets/roads already declared commercial by the Department of Local Govt Punjab subject to the decision of the case/cases pending in the Hon’ble High Court, it was finally decided on 22.07.19 that if the Govt. sanction to the committee decision dated 02.02.19 for conversion of road from “Saggu Chowk to Rajpura Road” as “commercial” is not received, the respondents No.1 & 2 shall proceed to take further action against the violators. It is submitted that now the Govt. vide letter N.CTP-(LG)-2019/2739 dated 03.09.19 has directed the Municipal Corporation that the observations convened in the letter dated 29.05.19 along with site sketches and others connected papers may be sent to Govt. so that final decision is taken by the Govt. In these circumstances, the House of Municipal Corporation Ludhiana vide resolution No.148 dated 23.09.2019 has ratified the observation of the committee dated 02.02.2019 and the resolution has been sent to the government. The survey plan as demanded by the government vide letter dated 03.09.2019 are also being sent separately.”

Counsel for the respondents have thus, submitted that there is no willful disobedience as the respondents are taking action, in accordance with law.

2023:PHHC:066802

It is also submitted that there is no encroachment on any public land and the allegations is only qua the users of the residential plot by the owners and the respondents have already decided to declare the road as commercial road for which the necessary approval is sought from the State of Punjab.

In view of the above, no willful disobedience of the order is made out.

Dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

09.05.2023

yakub

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No