

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

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2023:PHHC:138920-DB
LPA-1108-2022 (O & M)
Date of Decision: 31.10.2023

Gurinderbir and another

.....Appellant(s)

Versus

State of Punjab and others

....Respondent(s)

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

Present: Mr. Satnam Preet Singh Chauhan, Advocate,
for the petitioners.

Mr. Arjun Sheoran, DAG, Punjab.

Mr. Karambir Singh Chawla, Advocate, for respondent No.6.

G.S.SANDHAWALIA, J. (Oral)

1. The present letters patent appeal, which is barred by 81 days in refileing the same, is directed against the order of the Single Judge dated 14.09.2021 passed in CWP-18034-2021, Inderbir Singh Arora vs. State of Punjab and others which had been filed by respondent No.5.

2. The grievance in the writ petition was regarding the illegal encroachment upon a piece of land which is stated to be on the corner of H.No.239, Cheema Nagar, Mithapur Road, Jalandhar City, which is occupied by the writ petitioner. The grouse of the writ petitioner as such was against the present appellants that they had occupied the said portion and made illegal encroachments. The Single Judge had passed various orders directing the removal of the encroachments by noting that the present appellant No.2 was a former Inspector General of Police. A sum of Rs.5,00,000/- was also got deposited towards security by the writ petitioner in order to test his *bonafides* vide order dated 13.01.2022.

2. Eventually on 02.02.2022, the Municipal Commissioner, Jalandhar was present in the proceedings conducted through video

conferencing and an undertaking was given by him that the property under encroachment shall be secured by the barbed wire and efforts would be made to carpet the entire area with bitumen within short time. The amount of Rs.5,00,000/- was ordered to be refunded to the writ petitioner. Review application i.e. RA-CW-80-2022 came to be filed before the Single Judge by the present appellants, which was disposed of on 13.05.2022 by noting that a suit by way of adverse possession has already been filed by Mrs. Gurinderbir, one of the present appellants, who had claimed the right by way of adverse possession to the said portion of land. Resultantly, the Single Judge came to the conclusion that no ground to review the order passed was made out since appellant No.1 had filed a suit for declaration that she had perfected her title by way of adverse possession and the fact that the encroachment stood removed.

3. It is not disputed that the said suit for declaration is pending before the Civil Judge (Sr. Divn.), Jalandhar wherein, the said claim has been made regarding the property situated between Plot Nos.238 and 239 measuring 6 marlas and 95 sq. ft. situated in Cheema Nagar Jalandhar against Iqbal Kaur and the Municipal Corporation on the basis of adverse possession. It has also been brought to our notice that an application has been filed by the writ petitioner to be impleaded as a defendant in the said suit under Order 1 Rule 10 CPC.

4. We are, thus, of the considered opinion that the purpose of filing the writ petition as such regarding the encroachment has already been resolved by issuing necessary directions. If the parties have any grouse regarding the right of ownership, the Civil Court is already seized of the matter on the litigation. Accordingly, we do not feel that it is a fit case to

spend more time any further.

5. Resultantly, the present letters patent appeal is disposed of leaving it open to the parties to agitate for their grievances before the Civil Court.

(G.S. SANDHAWALIA)
JUDGE

31.10.2023
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(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No