

CWP-17731-2022 (O&M)

Date of Decision: 03.11.2023

Rajiv Kumar Gupta

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. N.K. Verma, Advocate, for the petitioner.
Mr. Arun William, Assistant Advocate General, Punjab.
Mr. Baltej Singh Sidhu, Sr. Advocate with
Mr. Robin Singh Bhullar, Advocate and
Mr. Jashandeep Singh, Advocate,
for respondents No.3 and 4.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for quashing the letters dated 11.05.2022 (Annexure P-2) & 05.08.2022 (Annexure P-4) passed by respondent No.3 i.e. learned Commissioner, Municipal Corporation, Batala instructing the petitioner to vacate the entire premises i.e. shop situated near the Khalsa School, Batala and for demolition of the same without following the due procedure of law and without issuing any show cause notice to the petitioner. Further as per the letter dated 11.05.2022 only upper floor of the shop was in poor condition which can be easily repaired and the petitioner had even undertook to carry out necessary repairs for making the building safe, but respondent No.3, is adamant to get the entire property vacated and demolished. Further prayer has been made to direct respondents No.3 and 4 not to necessarily harass the petitioner and to let the petitioner carry out the necessary repairs for making the building safe.

It has been submitted by the learned counsel for the petitioner that the impugned notices were issued to the petitioner in violation of Section 292 and 294 of the Punjab Municipal Corporation Act. He submits that the

petitioner is a tenant in the building, who is running shop on the ground floor. He fairly submits that the first floor of the building is in dilapidated condition. He further submits that the petitioner though a tenant but is ready to carry out necessary repairs of the building. He submits that after having been issued the impugned notices, the petitioner filed a representation to respondent no.3, which is placed on record as Annexure P-3. He submits that without deciding the representation filed by the petitioner, respondent No.3 issued another notice dated 05.08.2022 (Annexure P-4) to him. He submits that the grievance was raised by the petitioner in the representation filed, but despite that respondent No.3 intentionally did not decide the same and straightway issued another notice for vacation of the premises and demolition of the same.

Learned Senior counsel assisted by Mr. Robin Singh Bhullar, Advocate, has opposed the same and has submitted that the building is in dilapidated condition and is a threat to human habitation. He submits that the Department of PWD (B&R) has already submitted its report stating that the building is already found unfit for human habitation. He submits that the petitioner has approached this Court by concealing the fact that earlier he filed a civil suit and after getting stay, the same was dismissed as withdrawn. He submits that in view of the attending circumstances, the building is liable to be demolished. However, he fairly submits that though notices were issued to the petitioners in accordance with law, however, keeping in view the peculiar facts and circumstances, representation filed by the petitioner would be dealt with in accordance with law and would be decided expeditiously. He further submits that the respondent would proceed further in accordance with law.

After hearing learned counsel for the parties, the present petition is disposed of with a direction to respondent No.3 i.e. Commissioner of Nagar

Nigam, Batala to decide the representation (Annexure P-3) filed by the petitioner after hearing him and decide the same in accordance with law. The petitioner would be at liberty to pursue his remedy as available to him under law.

03.11.2023
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No