

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

CWP-16060-2023

DATE OF DECISION: 27.07.2023

HARPREET SINGH SIDHU AND OTHERS

.....PETITIONERS

Vs.

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

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

Present: Mr. Jasdev Singh Brar, Advocate,
for the petitioners.

Mr. V.G.Jauhar, Additional A.G., Punjab.

Ms. Anu Chatrath, Senior Advocate, with
Mr. Nishant Maini, Advocate,
for respondents No. 2 to 4.

G.S.SANDHAWALIA, J. (ORAL)

1. The relief claimed in the present petition filed under Article 226/227 of the Constitution of India is for issuance of a writ in the nature of '*Certiorari*' for quashing the impugned official notice dated 19.07.2023 (Annexure P-1), issued by the Additional Chief Administrator, Bathinda Development Authority, whereby orders have been issued to demolish the temporary iron railings in front of the petitioner's house without issuing any legal notice or providing opportunity of hearing.

2. Learned counsel for the petitioners has submitted that the said iron railings have only been installed for the purpose of maintaining the colony as such, there is menace of stray cattle and dogs. There are almost 32 entries to the colony and there is also an adjoining '*Basti*' called for

'*Dhobiya Basti*' and several FIRs have also been registered. Reference is made to the several photographs attached (Annexures P-4 and P-6) to show the free flow of cattle menace.

3. Reliance is also placed upon an order passed earlier by the co-ordinate Bench of this Court in CWP-3009-2022, titled **Ravinder Singh Romana and another vs. State of Punjab and others** decided on 17.02.2022 (Annexure P-5), wherein comprehensive representation was to be given to the respondents who would examine the issue and take necessary steps.

4. The similar order has also been passed in CWP-1784-2023, titled **Navpinder Pal Singh Sidhu vs. State of Punjab and others**, decided on 09.02.2023 (Annexure P-2), wherein directions were also issued that the reply of the petitioner would be considered, in pursuance to the notice issued and a speaking order be passed within a period of 3 weeks and till then *status quo* as it exists on that day will be maintained.

5. On 26.07.2023, i.e. yesterday, in CWP-16028-2023, titled **Charanjit Singh vs. State of Punjab and others**, we had also passed the similar order that demolition would be carried out only after issuing notice and giving opportunity of hearing to the petitioner and then a speaking order be passed.

6. Learned Senior Counsel appearing for respondents No. 2 to 4 submits that encroachments have been made by installation of iron railings and hedges based on retaining boundary walls around corner plots disrupting the free flow of traffic.

7. It is submitted that in such circumstances, the drive is being carried out to remove the encroachments of iron railings.

8. It is also further pointed out that several encroachments have been removed from 20.07.2023 to 25.07.2023 by the respondents-authorities and therefore, under the guise of the present order, the petitioners should not be in a position to press for any adverse action against the authorities.

9. We have considered the submissions on both sides.

10. It is our considered opinion that until the specific notice is issued to every individual pointing out the extent of encroachment, whole-scale removal would not serve the purpose. It is for the respondents-authorities to take into consideration which encroachment as such is of such a nature which cannot be compounded and is disrupting the free flow of traffic.

11. For example, if pillars have been extended on to the road to install a gate and extending the car parking area, the same would not be permissible in any manner. The boundary line has to be maintained and therefore, the residents as such cannot on the pretext of maintaining a green belt increase their space by extending the green belt of the hedge adjoining the pavement and increase the Green area around a house without having its own boundary wall. It is suffice to say that the above are one or two examples which cannot be permitted in any manner.

12. However, it is for the Administration as such to issue notice and give an opportunity to the residents to remove their encroachments and thereafter, an order should be passed and then implemented. The issue of

security should also be redressed by the respondents-authoriteis by associating the Residents Welfare Association regarding erecting of gates by restricted the entries to the colony to prevent the menace of stray cattle and also unauthorized persons who are not residing in colony.

13. With the aforesaid observations, the petition stands disposed of.

(G.S. SANDHAWALIA)
JUDGE

July 27, 2023
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No