

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-3658-2024
Date of Decision: 27.02.2024

PRITESH BHARDWAJ AND ANR.

... Petitioner

VERSUS

HON'BLE BUILDING COMMITTEE HARYANA AND ORS.

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Rajesh Lamba, Advocate
for the petitioners.

Ms. Munisha Gandhi, Sr. Counsel with
Mr. R.S. Kalra, and Prateek Rathee, Advocate
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed for seeking issuance of directions to respondents not to demolish the chambers constructed by the petitioner, which he claims to have been allotted by respondent No.4 vide allotment letter dated 06.11.2023.

Counsel for the petitioners contends that porta cabins on the roof of Lawyers' Chambers have been constructed by the District Bar Association, Gurugram after obtaining approval of the proposal/lay out plan from the Building Committee, Punjab and Haryana High Court, Chandigarh and that a letter of allotment dated 06.11.2023 had been issued in favour of the petitioners. A notice was, however, issued by the office of Chief Judicial Magistrate, Gurugram directing the petitioner to remove the illegal construction of porta cabins from the roof of Chamber No.123, Block-A, Common Lawyers'

Chambers, Judicial Complex, Gurugram as the same has been raised without the permission and/or sanction of the Competent Authority. Aggrieved thereof, the present writ petition has been filed.

This matter came up for hearing on 19.02.2024, when the petitioners were heard in person and the following order was passed:

“Mr. Pritesh Bhardwaj petitioner-in-person submits that the Building Committee of the Punjab and Haryana High Court had granted approval for construction of Porta cabins on the roof of the Lawyers Chambers Block A & B at Gurugram. He contends that he has already applied for seeking copy of such permission but has not received the same. He further states that in the event the above said statement of the applicant is found to be incorrect, on verification, he shall remove the illegal Porta Cabin with a period of 15 days.

Let a report be called for from the Registrar General, Punjab and Haryana High Court, Chandigarh for verification of the said claim.

Adjourned to 27.02.2024.”

In compliance with the said order, a short reply to the writ petition by way of an affidavit of Ramesh Chand, Chief Judicial Magistrate, Gurugram has been filed. The relevant part of the said reply reads thus:

“2. That the brief facts which are just and necessary for adjudication of the present petition are that the matter regarding construction of Porta Cabins/Kiosks in Judicial Complex, Gurugram was considered in the meeting of the Respondent No. 1 held on 05.02.2013 wherein the following decision was taken: -

"The revised architectural drawing for construction of 81 porta cabins on the roof the first floor of Lawyers' Chamber Block A and B, Judicial Court Complex, Gurgaon has been

produced today by the Bar Association. After discussion with the Architect Department, the same is approved with few modifications as specified by the representatives of the Architect Department on the approved building plan itself. It is made clear that the construction of the Porta Cabins shall be made as per the approved plan including modifications specified on it. A copy of the plan be sent to District Judge, Gurgaon to ensure that the construction be completed as per the approved plan."

3. *That a complaint was received from Sh. Anil Kumar Yadav, Advocate dated 26.06.2023 addressed to respondent No.2 stating that he is having chamber in the Judicial Complex, Gurugram, i.e., Chamber No. 123, Block A, Lawyers Chambers, Judicial Complex, Gurugram. It was stated by him that the area of his chamber was 3 times the area of normal chamber and the same is without any beam/pillar and therefore, it cannot bear any extra load. It was further stated that the aforesaid fact was brought to the notice of the respondent No.1 and it is in this backdrop that the roof above his chamber was excluded while granting permission for construction of Porta Cabin/ Chambers over the roof of chamber is of Block No.A and B. Despite the aforesaid exemption granted by respondent No. 1, in an illegal manner Porta Chamber are being constructed over the roof of his chamber. Copy of the complaint dated 26.06.2023 received from Sh. Anil Kumar Yadav, Advocate is annexed herewith as Annexure R-3/1.*

4. *That in order to ascertain the factual position as being raised by Sh. Anil Kumar Yadav, Advocate in his representation, with regard to illegal, unauthorised construction of porta chambers, the matter was got enquired from the District Level Building Committee, Gurugram. The District Level Building Committee, Gurugram vide letter dated 08.07.2023 concluded that the construction of porta cabin over the roof of Chamber No. 123*

are unauthorised and recommended the removal of the said construction. The report of District Level Building Committee, Gurugram was forwarded by Respondent No. 2 to the Worthy Registrar General of this Hon'ble Court, vide letter dated 12.07.2023. Copy of the report dated 08.07.2023 and the letter dated 12.07.2023 are annexed herewith as Annexure R-3/2 and R-3/3 respectively.

5. That this Hon'ble Court in light of the report submitted from Respondent No. 2, vide letter dated 27.07.2023 directed to remove the unauthorised construction of chambers with the help of District Administration. In pursuance thereto, the answering respondent vide letter dated 03.08.2023 requested the removal of unauthorised construction of chambers in question.

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8. That the present petitioners were called to remove the illegal and unauthorised construction of porta Chambers over the roof of Chamber No. 123, Block A, Lawyers Chambers, Judicial Complex, Gurugram. The petitioners submitted a joint affidavit that they have preferred the present writ petition before this Hon'ble Court which is slated for hearing on 27.02.2024 and stated that they have given a statement before the Hon'ble High Court to remove the chambers within a period of 15 days, if found the same to be constructed without permission. Further, a letter was received in the office of respondent No. 2 on 19.02.2024 by the present petitioners stating that they have approached this Hon'ble Court by filing writ petition and accordingly, requested the demolishing of the chamber may be deferred till the final decision of the writ petition.

9. That it is evident from above and from the facts and documents on record, that the porta chambers constructed over and above Chamber No. 123, Block A, Lawyers Chambers, Judicial Complex, Gurugram are without any permission, and

accordingly, being illegal in nature have been rightly ordered to be demolished.

10. That the assertion of the petitioners that sanction was granted by the respondent No. 1 to construct the 81 Porta chambers only on the roof of Block A and B viz a viz the chamber of the present petitioners, is concerned is falsified as construction over and above Chamber No. 123, Block A, Lawyers Chambers, Judicial Complex, Gurugram was never permitted and is accordingly, illegal and unauthorised.”

It is evident from a perusal of the above said reply that the Building Committee, Punjab and Haryana High Court, Chandigarh had granted permission for construction of only 81 porta cabins on the roof of the Lawyers' Chambers, Block-A & B, Judicial Complex, Gurugram as per the approved architectural plan based on structural evaluation of the Lawyers' Chambers. The construction of a porta cabin on the roof of Chamber No.123, Block-A was not approved as the said chamber is without the support of any beam and/or pillar and was not found suitable for bearing any extra load.

The petitioners had given an undertaking on 09.02.2024 that in the event their statement about the construction having been approved is found to be incorrect, they shall remove the porta cabins within a period of 15 days. Both the petitioners are present in Court today and have reiterated their statement that they would remove the said porta cabins within the period of 15 days as undertaken by them earlier and that they do not intend to press the present petition any further.

The present petition is accordingly disposed of as not pressed at this stage with a direction to the petitioners to remove the construction of porta

cabins from the roof of Chamber No.123, Block-A, Judicial Complex, Gurugram within the period as undertaken by them on 09.02.2024 and reiterated today in Court. The Building Committee of Sessions Division, Gurugram is also directed to carry out a survey of all porta cabins that have been constructed in violation of the building plan/lay out plan and the same are directed to be removed forthwith from Lawyers' Chambers, Blocks A and B. The petitioners would, however, be at liberty to initiate action against the responsible person in the District Bar Association, Gurugram for having made an allotment of porta cabin, in violation of the approved building plan and may pursue such action as is available to them under law.

Petition stands disposed of accordingly.

FEBRUARY 27, 2024
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(VINOD S. BHARDWAJ)
JUDGE

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