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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP-8073-2019 (O&M)  
Date of Decision: 04.03.2024

Rajender Singh

....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

CORAM: HON’BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rajesh Arora, Advocate, for the petitioner.

Mr. P.S. Poonia, Advocate,  
for the applicant in CM-9511-CWP-2019.

Mr. Gaurav Jindal, Additional Advocate General, Haryana.

Mr. Samarth Sagar, Advocate, for respondent No.3.

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JASGURPREET SINGH PURI, J. (Oral)

CM-9511-CWP-2019

The present application has been filed under Order 1 Rule 10  
read with Section 151 CPC for impleading the applicant as respondent.

No ground is made out for impleading the applicant as  
respondent.

Application stands dismissed.

Main case

1. The present writ petition has been filed under Article 226 of the  
Constitution of India seeking issuance of a writ in the nature of *certiorari* for

quashing office order dated 19.03.2019 (Annexure P-19) whereby the Residential Chamber at Tubewell No.5 which was allotted to the petitioner has been directed to be cancelled and the petitioner has been directed to shift from the aforesaid Chamber.

2. Brief facts of the present case are that the petitioner is an employee of the respondent-Corporation and his services were regularized to the post of Tubewell Operator in the year 2014. After he was regularised, he made a request for allotment of a residential accommodation vide Annexure P-1 on 30.10.2014. Thereafter, the Committee accepted the recommendation and he was finally allotted the Chamber vide Annexure P-5. Thereafter, a dispute arose between the petitioner and some Resident Welfare Council of that area. The aforesaid Resident Welfare Council filed an application before the Permanent Lok Adalat, although without impleading the petitioner as a party but the aforesaid application was filed against the Municipal Corporation, Faridabad. The aforesaid Permanent Lok Adalat decided the application and so observed that in view of the amicable settlement between the parties the Corporation will cancel and vacate the chamber of the petitioner. The petitioner was admittedly not a party in the aforesaid proceedings before the Permanent Lok Adalat. Thereafter, the petitioner challenged the aforesaid order by filing a writ petition bearing No.20539 of 2016 particularly on the ground that the aforesaid order has been passed at the back of the petitioner and also on the ground that the Permanent Lok Adalat had no jurisdiction to pass such an order. The aforesaid writ petition was decided by a Co-ordinate Bench of this Court vide Annexure P-12 in which the order passed by the Permanent Lok Adalat was set aside. Thereafter, the Resident Welfare Council filed a civil suit

before the learned Civil Court which is stated to be still pending. However, in the meantime, the respondent-Corporation passed impugned order Annexure P-19 whereby the allotment of the aforesaid Residential Chamber No.5 in Sector 17 to the petitioner was cancelled. The aforesaid order is under challenge in the present petition.

3. Learned counsel appearing on behalf of the petitioner submitted that it is a case where he was lawfully and legitimately allotted the aforesaid Residential Chamber No.5 in Sector 17 after he was regularised in service by following due process of law and by way of a recommendation of the Committee constituted by Corporation themselves but thereafter in view of some complaint filed by the Resident Welfare Council on various grounds that the Permanent Lok Adalat had passed an order on the basis of some settlement between the respondent-Corporation and the Resident Welfare Council but the petitioner was never associated with the aforesaid and that order was set aside by a Co-ordinate Bench of this Court vide Annexure P-12. He submitted that now the respondent-Corporation under the pressure of the aforesaid Resident Welfare Council has again passed the aforesaid order vide Annexure P-19 by which the allotment made to him has been cancelled. He submitted that he has been residing in the aforesaid house from the year 2016 onwards and there is no difficulty with the petitioner to have resided at that place and it is not a case that he has been residing in the aforesaid house/chamber without any authority of law but he was duly allotted the aforesaid chamber by the respondent-Corporation and there is no occasion for the Corporation to have cancelled it but it is only because of the pressure of the Resident Welfare Council that has been done. He submitted that so far as the allegations which have been levelled against the

petitioner that he has raised some other construction or installed some cameras etc. is concerned, the same itself cannot become a ground for cancellation of the Chamber. He further submitted that even otherwise also in case the chamber/residential house of the petitioner is to be cancelled and he is to be thrown out, then some alternate accommodation has to be given to the petitioner of at least optimum level of maintained house/chamber but the petitioner now only because of the complaint of the Resident Welfare Council cannot be thrown on the road and the petitioner is residing in the aforesaid Chamber with his family i.e. his wife and children which includes a college going girl. He submitted that the respondent-Corporation had been totally insensitive towards the aforesaid issue involved.

4. Learned counsel further submitted that during the pendency of the present petition, this Court had rather appointed a Local Commissioner and the Local Commissioner has submitted a report which is appended with the present petition and as per report of the Local Commissioner a comparison was made with regard to the existing house of the petitioner which is Chamber No.5 and the proposed house which is at Chamber No.1 and even the photographs have also been attached by the Local Commissioner. He submitted that the aforesaid proposed place of Chamber No.1 is a place which is absolutely not fit for habitation and even this Court vide order dated 28.03.2023 had also observed that the place is not fit for habitation. He submitted that once a place itself is not fit for habitation, even as per report of the Local Commissioner and the orders passed by this Court dated 28.03.2023, then the petitioner cannot be compelled to leave the house which was otherwise lawfully allotted to him by the Corporation themselves and therefore has prayed that the impugned order is liable to be

set aside and quashed.

5. On the other hand, Mr. Samarth Sagar, learned counsel appearing on behalf of the respondent-Corporation submitted that during the pendency of the present petition various developments have taken place. He submitted that although there was a report of the Local Commissioner and as per photographs attached alongwith the report of the Local Commissioner and the observations made by this Court in order dated 28.03.2023, the place at Chamber No.1 may not be a fit place for habitation at this stage but the petitioner was also offered an alternate place identified by the Local Commissioner and at that place as well, the petitioner can always be allotted a chamber and this will also resolve the dispute between the petitioner and the Resident Welfare Council. He submitted that with regard to renovation of the aforesaid alternate place at Hari Mandir, Sector-17, Faridabad, the same at this stage may not be appropriate for the petitioner to shift but the respondent-Corporation has already decided to renovate the aforesaid house and for the aforesaid purpose, even tender has been floated on 10.03.2024 and even if ignoring the aforesaid Chamber No.1 on which the petitioner was to be shifted is concerned, since an alternate place to the aforesaid Chamber No.1 is being offered to the petitioner, then the petitioner can always be provided the aforesaid accommodation in accordance with law and the petitioner should not be permitted to insist upon Chamber No.5 in which he is already living.

6. I have heard the learned counsel for the parties.

7. It is a case where the dispute although is very short but it has been elongated. The trouble started when the Resident Welfare Council made complaint at various stages and even to the Permanent Lok Adalat and

the Permanent Lok Adalat passed an order at the back of the petitioner, although the aforesaid order was set aside by a Co-ordinate Bench of this Court vide Annexure P-12. It is a case of right to have a house i.e. a Government accommodation. The petitioner was validly allotted Chamber No.5 where he is residing and the same was allotted to him by following due process by the Corporation themselves and there is no dispute with regard to the same. Now the dispute is only with regard to the fact that the petitioner should be shifted from the aforesaid house to any alternate place or not. The petitioner is stated to be living with his family i.e. his wife and children which includes a college going girl. Learned counsel for the respondent-Corporation has also stated that the petitioner had been misusing the property by raising some unlawful construction and installing cameras. It has also been stated by the learned counsel for the respondent-Corporation that an alternate place at Hari Mandir, Sector-17, Faridabad is under consideration and even tender was floated on 10.03.2024 in this regard.

8. After hearing the learned counsel for the parties and perusing the report of the Local Commissioner and the entire record, this Court is of the view that the petitioner was allotted the aforesaid Chamber No.5 by the Corporation themselves and in accordance with law regarding which there was no dispute raised by the respondent-Corporation but eventually he was required to be shifted from that place on the basis of the complaint of Local Resident Welfare Council and also on the basis of some allegation with regard to alteration or illegal construction but at the same time the right of the petitioner to have a shelter is also to be seen and this Court is of the view that it is a Fundamental Right of the petitioner under Article 21 of the Constitution of India which is to be considered so that it does not get

infracted under any circumstance particularly in view of the fact that the petitioner is residing with his family as aforesaid. Now the learned counsel for the respondent-Corporation has stated that an alternate site is being considered and tender is being floated. However, the aforesaid site is still under consideration and is still not renovated.

9. Therefore considering the aforesaid facts and circumstances, this Court is of the view that the petitioner cannot be ousted from the house where he is residing unless an appropriate or optimum accommodation is provided to the petitioner.

10. In view of the above, the present petition is allowed. The impugned order Annexure P-19 is hereby set aside. It is further directed that setting aside of the aforesaid order would not create an embargo upon the respondent-Corporation to provide an alternate accommodation to the petitioner which should be not only appropriate for the petitioner but it should be an optimum site with regard to at least basic level of living conditions which was although not there in the first site which was offered at Chamber No.1, Sector 17. As and when any alternate site is so prepared and is ready, then the respondent-Corporation shall be at liberty to give a notice to the petitioner in accordance with law for vacating the existing place where he is residing and to offer him the aforesaid site. Since in the present case for two times the petitioner had to come to this Court and after the report of the Local Commissioner was perused by this Court and in order dated 28.03.2023 it was observed that the site was not good for habitation, it is directed that at the time when any alternate site is offered to the petitioner, the same shall be got verified from a Committee consisting of Sub Divisional Magistrate, Faridabad and Deputy Director of Local Bodies

who after visiting the spot shall give report to the respondent-Corporation after associating the petitioner that now the alternate site is a fit place for residing of the petitioner and his family under normal optimum circumstances.

04.03.2024  
rakesh

(JASGURPREET SINGH PURI)  
JUDGE

Whether speaking

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Yes/No

Whether reportable

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Yes/No