

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

127

2024.PHHG:066427



CR-1343-2021

Date of decision: 13.05.2024

RAM SINGH

..Petitioner

Versus

STATE OF HARYANA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate
with Ms. Tejaswini, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

Mr. S.P. Chahar, Advocate
for respondent No.3.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition, the plaintiff assails the correctness of the First Appellate Court's order, which in turn has set aside the injunction granted by the trial Court.

2. In CWP-2272-2003, the Division Bench of High Court vide judgment dated 22.11.2010, issued directions to remove unauthorized encroachment over the public property and retrieve public property from the encroachers. The petitioner claims to be in possession of property belonging to the Department of Custodian. He claims that he is in possession of the property for quite some time. The respondents claimed that pursuant to the direction of the Court, the unauthorized encroachment was removed on 12.02.2020 i.e. before filing of the suit.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. The learned counsel representing the petitioner submits that there is a policy of the respondents to regularize encroachment by charging some amount. She submits that the petitioner is in possession of the property for quite some time as he constructed five rooms.
5. Per contra, the learned counsel representing the respondents submits that the petitioner is no longer in possession of the property as unauthorized encroachment was removed on 12.02.2020.
6. The stand of the respondent has been accepted by the First Appellate Court. Moreover, the Courts should not encourage encroachers of the public property by protecting their possession.
7. Before granting injunctions, following three well-known tests are required to be applied:-
- i. Prima facie case;
 - ii. Balance of convenience; and
 - iii. Irreparable loss and injury, which cannot be compensated later on.
8. In the considered opinion of the Court, unauthorized encroacher neither has *prima facie* case nor the balance of convenience in his favour.
9. Hence, no ground to interfere is made out.
10. Dismissed accordingly.
11. All the pending miscellaneous applications, if any, are also disposed of.

May 13th, 2024

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(ANIL KSHETARPAL)
JUDGE

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