



(204)

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

CWP-12105-2016 (O&M)

Date of decision:- 11.12.2024

Narain Saroop Sharma

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM:-

HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Amarbir Singh Salar, Advocate,
for the petitioner.

Mr. Deepak Balyan, Additional Advocate General, Haryana,
for respondents No. 1 to 4.

None for respondent No. 5.

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SHEEL NAGU, C.J. (ORAL)

1. This petition has been filed raising the public cause that the land belonging to Kalka Pinjore Municipal Council bearing Khasra/Survey Nos. 184, 187, 192 and 193 has been encroached upon by several persons and neither the Municipal authorities, nor the functionaries of the State of Haryana are evicting the said encroachers.

2. The Commissioner, Municipal Corporation, Panchkula, has filed a status report on 03.07.2019, which is already on record, wherein it is not denied that there is encroachment on the above-said Khasra/Survey numbers. Instead it is revealed that certain show cause notices under Section 408A(1) of the Haryana Municipal Corporation Act, 1994 had been issued which, for reasons best known to the Municipal Corporation, Panchkula, could not reach their logical end. As a result, the encroachment continues to exist.

3. Despite notice having been served upon respondent No. 5 – Kalka Pinjore Municipal Council, no one has appeared and, therefore, this Court deems it appropriate to treat the said respondent No. 5 as served and proceeds to decide this matter on merits.

4. It is the statutory duty of the Local Bodies to ensure that the land and properties belonging to them remain free of encroachments. In the present case, it appears that despite admitting that there is encroachment over the Municipal land, no effort has been taken to evict the encroachers.

5. It is a little strange to understand as to why the Kalka Pinjore Municipal Council has initially issued show cause notice(s) under the Public Premises Act, 1971.

5.1 It is made clear by this Court that the Public Premises Act, 1971 is meant to protect encroachments on government land/property as is evident from Section 2 of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 which defines “public premises” in the following terms:-

“public premises” means any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the State Government, or requisitioned by the competent authority under the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953, and includes any premises belonging to any [Local authority or District Soldier’, Sailors; and Airmen’s Board] [or any university established by law] [or any Corporation or Board owned or controlled by the State Government {or a Wakf registered with the Haryana Wakf Board}].”

6. The facts further reveal that Municipal Corporation, Panchkula, has also issued notices under Section 408A(2) of the Haryana Municipal Corporation Act, 1994 which are annexed alongwith the reply/status report dated 03.07.2019 collectively as R-2/1. These notices were issued some time in June, 2019, but even after expiry of more than five years, no effort has been made to evict the encroachers.

7. In view of the above, this Court disposes of the petition with following directions:-

- (i) If the encroached area has not been demarcated, then the same shall be conducted within a period of 30 days from today by following the due process of law.
- (ii) Based on demarcation report in case any encroachments are found, then each encroacher be served with notice of eviction, by following the appropriate mode of service prescribed by law.
- (iii) In case, no reply is filed within 15 days of service or deemed service of notice(s), extendable by another 15 days in exceptional cases for reasons to be recorded in writing, then encroachments be physically removed, if necessary, by applying reasonable and permissible force.
- (iv) In cases, where reply of show cause notice is filed, the same shall be considered by passing a speaking order and communicating the same to the alleged encroacher, who will then be extended opportunity of 30 days to avail statutory remedy, if any, or approach the Civil Courts. If the alleged encroacher is unable to make available any restraint order from quasi-judicial or judicial forum within the said 30 days, then the respondents are directed to physically remove the encroachments.

The report of making the Municipal land free of encroachment shall be filed well before the next date of hearing.

- (v) If compliance report is not filed by the Municipal authorities/ functionaries of the State of Haryana by 17.03.2025, then this matter shall be taken up as PUD for compliance.

8. For the present, this CWP stands disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

11.12.2024
Amodh Sharma

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