

THROUGH VIDEO CONFERENCING

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-18200-2024 (O&M)
Date of Decision: 09.12.2024

Milki

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Inderjit Singh, Advocate
for the petitioner (through video conferencing).

Mr. Navneet Singh, Senior DAG, Punjab.

Mr. Ashok Kumar Bazaz, Advocate
for respondents No.2 and 3.

HARSH BUNGER J. (ORAL)

CM-19850-CWP-2024:

Prayer in the present application is for placing on record Annexures P-8 to P-12 as well as the replication filed on behalf of the petitioner to the reply filed by respondent No.2.

For the reasons mentioned in the application, Annexures P-8 to P-12 and the replication filed on behalf of the petitioner to the reply filed by respondent No.2 are taken on record, subject to all just exceptions.

Application is accordingly disposed of.

CWP-18200-2024:

The present writ petition has been filed under Articles 226/227

of the Constitution of India, *inter alia*, seeking a writ in the nature of Mandamus to direct respondents No.1 to 3 to comply with demolition notice dated 13.09.2019 (Annexure P-4) and further to decide the representations (Annexures P-2, P-5 and P-6).

2. Briefly, the petitioner along with other residents of the area had submitted representation (Annexure P-2) before the learned Commissioner, Municipal Corporation, Ludhiana, against one Raju and other unknown persons, alleging that they had raised illegal construction near the wall of Central Jail, Ludhiana and they were selling adulterated dairy products and drugs in the area. It was also alleged that the children of the aforesaid persons were beating the children of locality and when the area residents tried to stop them then they were also being threatened. It was further alleged that the said persons were related to certain notorious persons who come to their homes and they keep them without any police inquiry. Accordingly, it was stated that the said persons were polluting the environment of the area and necessary legal action was sought against them.

3. Learned counsel for the petitioner submits that demolition notice dated 01.08.2019 (Annexure P-3) was issued against respondent No.4 (Raju), however, no further action was taken against him. It is stated that similar representations dated 07.05.2024 (Annexure P-5) and 18.07.2024 (Annexure P-6), as that of representation dated 14.06.2019 (Annexure P-2), have also been submitted before the Municipal Corporation, Ludhiana; however, no action has been taken thereupon, till date.

4. A perusal of paper book would reveal that as regards the allegations made in the representation(s) submitted by the petitioner, learned counsel for respondents No.2 and 3 has submitted reply by way of affidavit dated 09.09.2024 of Mr. Sandeep Rishi, I.A.S., Commissioner, Municipal

Corporation, Ludhiana, which is already on record. In paragraphs No.3 and 4 thereof, the following stand has been taken by the Municipal Corporation, Ludhiana:-

*“3. That as per the record, on a receipt of a complaint, Annexure P/2 regarding unauthorised construction being raised by some person on the land situated near Bhola Colony, Tajpur Road, near Central Jail, Ludhiana, a call memo dated 01.08.19, Annexure P/3 was issued to the constructor to produce the sanctioned building plan and/or the receipt of payment of composition fee for regularisation of unauthorised construction otherwise further legal action shall follow. This call memo dated 01.08.19 was received by Raju s/o Nawab Deen. The photographs of the impugned construction are annexed herewith as **Annexure R-2/1**. However, when no written reply was received to call memo dated 01.08.19, Sh. Raju was served with a demolition notice dated 13.09.19, Annexure P/4. At this stage, Sh. Raju appeared in the office and submitted that no new construction has been raised at site and that cattle shed and a small structure used as residence is there for the last more than 40-50 years. When further action on notice dated 13.09.19 was contemplated, Sh. Raju filed a civil suit bearing number 108/2020 in the learned Civil Court at Ludhiana for grant of decree of declaration that the plaintiff is owner in possession of the suit land measuring 160 K-18 Marla situated at Village Kulianwal, Ludhiana on the ground of adverse possession and arrayed Yusuf S/O Badang, Ali S/O Badang and Raja S/O Jagatjit Singh as defendants. In this civil suit, it was contended that defendants no.1 & 2 were the owners of the land but father of the plaintiff, Sh. Nawab has been in possession of suit land to the knowledge of defendants no.1 and 2 since the year 1949, therefore, in the year 1961, Nawab Deen has become owner in possession and now the plaintiff who is in continuous possession of the suit land is the owner. Later on, application under Order VI Rule 17 of the CPC was given by plaintiff for amendment of plaint and suit*

land was referred as 40 Kanal-18 Marla bearing Khasra No. 50//3, 4, 5, 6, 7, 8, Khata number 599//1/614/1358. Village Kulianwal, Hadbast number 178, Ludhiana. The Municipal Corporation, Ludhiana was arrayed as defendant no.4 and relief prayed against answering Corporation was not to interfere and harass the plaintiff on the asking of defendants no.1 to 3 and not to demolish the super structure which was raised long back. This Civil suit is pending final adjudication in the learned Civil Court at Ludhiana.

4. That it is also pertinent to submit here that in the year 2020, a person has attempted to raise pucca structure over the suit land and when notices for demolition of unauthorised construction were issued and ultimately demolition was carried out, one Mohinder Kaur Grewal filed a CWP No.13104 of 2020 in this Hon'ble High Court impugning the action of the Municipal Corporation on the ground that petitioner is owner as petitioner has purchased the land from Yusaf and that the learned Financial Commissioner, Punjab has already dismissed the revision filed by the Gram Panchayat. At this stage, it emerged on record that the suit land measuring 40 Kanal-18 Marla was initially mutated in favour of the Gram Panchayat and on extension of Municipal limits, in the year 1976, the land was mutated in favour of the Municipal Corporation. It also emerged that the revenue authorities at the back of the Municipal Corporation and on the basis of order passed by the learned Financial Commissioner, Punjab in the year 2001, in which the Municipal Corporation was not a party has mutated the name of the petitioner in the revenue record. As such, the Municipal Corporation has already requested the Deputy Commissioner, Ludhiana to take further necessary action so that no person could usurp the public land.”

4.1 From a perusal of the aforesaid reply dated 09.09.2024 filed on behalf of respondents No.2 and 3, it is evident that as regards the area in question, two litigations are stated to be pending, i.e. one civil suit filed by

respondent No.4 herein before the Courts at Ludhiana and another writ petition bearing CWP No.13104 of 2024 before this Court. It is also borne out from the reply that a further action in the matter would be taken by the concerned authorities after the decision in the aforesaid pending litigations.

5. Keeping in view the aforesaid facts and circumstances, I find no compelling reason to interfere in the instant matter. Accordingly, the present writ petition is dismissed, however, with an observation that the concerned authorities shall ensure that no illegal/unauthorized construction takes place in the vicinity of the Central Jail, Ludhiana and the allegations of selling drugs in that area are checked and addressed on priority.

6. All the pending application(s), if any, shall also stand closed.

09.12.2024*Apurva***(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No