



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-25616-2024(O&M)
Date of decision: 03.10.2024

Dinesh Babu Khurana
... Petitioner
Versus
Estate Officer, Sector 17, Chandigarh, U.T. and another
... Respondents

CORAM: HON’BLE MR. JUSTICE ARUN PALLI
HON’BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. A.P. Bhandari, Advocate,
for the petitioner.
Mr. Aman Bahri, Addl. Standing Counsel, and
Ms. Shubreet Kaur, Jr. Panel Counsel,
for respondent No.1-UT, Chandigarh.

ARUN PALLI, J. (Oral)

The petitioner (Dinesh Babu Khurana) has prayed for the following substantive relief:

“Civil writ petition under article 226/227 of the Constitution of India praying for issuance of a writ in the nature of mandamus; directing the respondents to compensate the petitioner as per report dated 27.09.2024 (Annexure P-5) for the damages caused due to the arbitrary and illegal permission granted by the office of respondent no 1 for multi storey reconstruction in the abovesaid property of respondent no 2; and
granting an interim stay, restraining the respondent no 2 to stop ongoing illegal reconstruction over the abovesaid plot of respondent no 2 and stop the illegal alteration and extension of the common load bearing wall in violation of building rules and byelaws, in view of the imminent danger being posed to the house



of the petitioner and to the life and limb of the petitioner and his family; and

directing the respondent no 1 to act promptly, in accordance with law, against the respondent no 2; as despite the petitioner making several visits to the offices of respondent no 1 and even making written representations dated 16.09.2024 (Annexure P-3) and 26.09.2024 (Annexure P-4), respondent no 1 is not taking any action; while the respondent no 2 is illegally reconstructing the building and illegally altering and extending the common load bearing wall in a hurry, creating an illegal, unsafe, zig-zag and unstable structure which can make the house of the petitioner fall anytime, also considering that Chandigarh is in seismic zone IV as per Bureau of India Standards;”

Learned counsel for the petitioner submits that petitioner is the owner of House No.1111, Sector 19B, Chandigarh, and the adjacent site/plot No.1112 (Sector 19B, Chandigarh) is owned by respondent No.2 - C.P. Singh. It is submitted, the limited grievance that the petitioner has is: the private respondent is constructing the adjacent site/plot in apparent violation of the building bye-laws/norms. As a result, not only a severe damage is caused to the common structural wall, but the illegal construction that has been carried out has also impacted the life-span of the structure of the house of the petitioner. In this regard, he has drawn our attention to the structural engineering report dated September 27, 2024 (P-5). Not just that, he submits that prior to the institution of this petition, the petitioner had even served the respondent-authorities with the representations dated September 16, 2024 (P-3) and September 26, 2024 (P-4), but to no avail.

Served with the advance copy of the petition, Mr. Aman Bahri, learned Additional Standing Counsel, UT, Chandigarh is present in Court on behalf of respondent No.1. At the outset, on instructions, he submits that the subject site (H.No.1112, Sector 19B, Chandigarh) was inspected today itself in the morning by the Sub Divisional Officer (B) and Junior Engineer of the



concerned Department. He has shared with us a copy of the Inspection report dated October 3, 2024 (taken on record as **Mark ‘X’**), which indicates:

Sr.No.	Violations
1.	Common Wall has been made by 4.5” instead of 9” in the rear portion towards H.No.1111 against the sanctioned plan.
2.	Nitches have been made in common wall ground floor and 1 st floor.
3.	Seepage has been found in the common wall of H.No.1111 in all the floors.
4.	Building material have been dumped on the road.
5.	Dust protection/net sheeting have not been provided during construction.

Accordingly, he submits, for the matter is already under consideration of the competent authority, and a Show Cause Notice is being issued to the private respondent, it would be expedient if this petition is disposed of, at this stage, to enable the respondent-authorities to deal with the concerns/grievances of the petitioner. And pass necessary orders, in accordance with law. Further, before any such orders are passed, the petitioner as also the private respondent would be afforded due and adequate opportunity of hearing. For which, a formal communication would also be issued well in advance.

That being so, learned counsel for the petitioner submits that let the petition be disposed of in terms of the statement of learned Additional Standing Counsel, UT, Chandigarh. However, he submits, for the construction is being carried out at site at a rapid pace, and as per the report submitted by the Structural Engineer, an irreversible damage has already been caused to the house of the petitioner, if the construction activities are not stalled, the petitioner perhaps would face an irreparable loss and injury. And, therefore, till a formal decision is reached by the respondent-authorities, the construction at site over plot No.1112, Sector 19B, Chandigarh be stayed.

In response, learned Additional Standing Counsel submits that in the given circumstances, the petitioner is at liberty to move the competent authority with an appropriate prayer in this regard by filing a formal application, which shall be taken cognizance of.



In the wake of the position sketched out above, as also the statements of learned counsel for the parties, the petition is accordingly disposed of.

Needless to assert that this order shall not constitute any expression of opinion on the merits of the case of either party, for, as indicated above, the competent authority shall examine the concerns/grievances of the petitioner, strictly in accordance with law.

(Arun Palli)
Judge

(Vikram Aggarwal)
Judge

03.10.2024
Rajan

Whether speaking / reasoned:	YES/NO
Whether Reportable:	YES/NO