

2025:PHHC:048483



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

**CWP-10126-2025
Date of Decision: 08.04.2025**

Mandeep Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Ram Kumar Saini, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

HARSH BUNGER J. (ORAL)

The instant writ petition has been filed under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Mandamus for directing the official respondents to immediately get vacated the illegal encroachment by respondents No.7 and 8 over the land/passage measuring 46.6 sq. yards of the Municipal Committee, Mahendergarh.

1.1 Another prayer has been made for setting aside order dated 10.03.2021 (Annexure P-12) passed by the Secretary, Municipal Committee, Mahendergarh.

1.2 A further prayer has been made for directing the official respondents to cancel the membership of respondent No.8 as Councilor of

Ward No.9, Municipal Committee, Mahendergarh, on account of his being an encroacher over the Municipal Committee land/passage.

2. Briefly, respondent No.7 (Rohtas), who is the father of respondent No.8 (Devender @ Sonu); is stated to have constructed a house over an area measuring 193 sq. yards., situated within Mohalla Rathoran, Ward No.10, Mahendergarh. It is stated that when respondent No.8 was elected as Councilor from Ward No.9, Municipal Committee, Mahendergarh then during the Covid period, respondents No.7 and 8 encroached upon 46.6 sq. yards of the Government land and made illegal constructions thereon, by removing the drainage line from its actual place. The said encroachment is stated to have been done on the land/passage falling in between the house of petitioner and respondents No.7 and 8.

2.1 It is stated that a notice under Section 181 of the Haryana Municipal Act, 1973, dated 22.05.2020 (Annexure P-4), was issued to respondents No.7 and 8, but they did not stop the illegal construction despite the said notice being served upon them. Thereafter, petitioner is stated to have approached the Municipal Committee, whereupon, the area of respondent No.7 was got demarcated, which was found to be 239.6 sq. yards, thereby clearly indicating the illegal encroachment over 46.6 sq. yards of the land. It is stated that several other notices (Annexures P-6 and P-7) were also issued, however, the illegal encroachment was not vacated by respondents No.7 and 8. Thereafter, petitioner is stated to have submitted representation dated 10.09.2020 (Annexure P-8) before the Deputy Commissioner, Narnaul, still no action was taken against the said illegal encroachment.

2.2 Subsequently, petitioner approached this Court by way of filing

a writ petition (CWP No.17374 of 2020), thereby placing reliance upon the directions issued by this Court vide order dated 11.12.2008 (Annexure P-9) passed in CWP No.17664 of 2005, titled as “*Rajan Goel and another Vs. State of Haryana and others*”. It is clarified here that CWP No.17664 of 2005 was disposed of in terms of an earlier decision rendered in CWP No.4886 of 2003.

2.3 The said CWP No.17374 of 2020, filed by the petitioner, was withdrawn with liberty to avail his remedy of filing a contempt petition, vide order dated 11.12.2020 (Annexure P-10). Thereafter, petitioner preferred Contempt Petition (COCP No.365 of 2021), wherein a statement was made on behalf of the State of Haryana that necessary action would be taken on the representation submitted by the petitioner, and accordingly, vide order dated 12.02.2021 (Annexure P-11), the said contempt petition was disposed of with a direction to the respondents therein to decide the representation submitted by the petitioner in terms of order dated 04.10.2008 passed in CWP No.4886 of 2003; and in case of non-compliance, a further liberty was granted to the petitioner to seek revival of the Contempt Petition.

2.4 It appears that petitioner herein submitted an application (CM No.4130-CII of 2021) in the above referred Contempt Petition, seeking revival of the same; wherein, reply by way of affidavit of the Secretary, Municipal Committee, Mahendergarh, was filed, indicating that the Committee had got the land demarcated from a Junior Engineer, who reported that there was no encroachment on the land of Municipal Committee and the plot *qua* which unauthorized possession had been alleged, falls within *Laal Dora*. The said application (CM No.4130-CII of 2021) came to be dismissed by this Court vide order dated 15.05.2024

(Annexure P-16).

3. In the aforementioned circumstances, petitioner has filed the instant writ petition before this Court seeking relief(s), as noticed hereinabove.

4. Heard.

5. Petitioner herein is alleging encroachment over the Municipal Committee land/passage by respondents No.7 and 8. Upon perusal of the paper book, it is revealed that in pursuance of the earlier litigation; the Secretary, Municipal Committee, Mahendergarh, vide order dated 10.03.2021 (Annexure P-12), held as under:-

“ - x - x -

For deciding the afore-mentioned issue, Sh. Rohit Kumar, Junior Engineer was appointed to demarcate the spot. On 08.03.2021 Sh. Rohit Kumar, Junior Engineer alongwith the attendant Sh. Bijender demarcated the spot as per Municipal record chowk no.44 and 45 of sheet no.47 in presence of the residents of the city. On the spot no encroachment was found on the public land of the Municipal Committee and the plot belonging to the accused falls in Laal Dora and if there is any encroachment in the personal land in Lal Dora then the Municipal Committee is not competent to get it removed. Therefore, the complaint is dismissed being devoid of merits and the same is being consider to be filed.”

5.1 Further, this Court, vide order dated 15.05.2024 (Annexure P-16), had dismissed the application bearing CM No.4130-CII of 2021, seeking revival of the contempt petition (COCP No.365 of 2021), by observing that highly disputed questions of fact were raised by the petitioner in the matter; however, he was granted liberty to avail his statutory remedies for getting the encroachments removed. Relevant extract of order dated 15.05.2024 (Annexure P-16) reads as under:-

“ *This is an application for recalling of the order dated 12.02.2021 passed by this Court in the main contempt petition.*

Keeping in view the fact that the order qua which the main contempt petition is alleged is containing only general directions and in the facts which the petitioner raising are involved highly disputed question of facts, therefore, this Court does not find any ground to recall the order dated 12.02.2021 passed by this Court as such. Hence, the present application is dismissed.

However, the applicant-petitioner would be at liberty to avail his statutory remedies under the relevant statutory provisions for getting the encroachment removed.”

6. In my considered view, since the instant matter involves disputed questions of fact, which would require leading of evidence, which cannot be done before this Court; accordingly, the instant writ petition is dismissed, however, relegating the petitioner to avail his remedies before the Civil Court, in accordance with law.

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

08.04.2025

Apurva

**(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No