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

COC-1855-2019

Date of decision: 25.08.2025

SUBHASH KUNDRA @ KATTY**..Petitioner****Versus****KAMAL PREET KAUR BRAR IAS AND ORS****..Respondents****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Vijay Rana, Advocate
for the petitioner.

Mr. Ashok Bazaz, Advocate
for respondents No.1 to 3.

Mr. Animesh Sharma, Addl. A.G, Punjab.

SUDEEPTI SHARMA, J. (Oral)

1. The contempt petition has been filed for deliberate and intentional disobedience of order dated 04.10.2008 passed in CWP-4886-2003.
2. The relevant portion of order dated 04.10.2008 passed in CWP-4886-2003, is reproduced as under:-

“[11]. While, we are not inclined to continue monitoring the enforcement activities of the Corporations indefinitely, their persistent inaction in the past, warrants suitable directions to the authorities of the Municipal Corporations and the State Government, to ensure that the ongoing process of removal of encroachments is taken to its logical conclusion and no one is allowed to grab the public properties in future also with or without the connivance of the authorities concerned. We accordingly dispose of this writ petition with the following directions:-



(i) the State of Punjab is directed to take a conscious policy decision, in accordance with law for removal and/or regularization of the encroachments, if any, made on the public lands by the government's Educational Institutes, Hospitals, Dispensaries, Police Stations, etc. keeping in view the fact that such institutions are not to be placed at the same pedestal as a private individual encroacher,

(ii) the directions issued by this Court on 10.2.2004 restraining the State Government from regularizing unauthorized encroachments and constructions, provided that such encroachments are other than by the government or public institutions, are made absolute;

(iii) the civil courts before whom the cases pertaining to encroachments made within the areas of Municipal Corporations, Ludhiana, Bhatinda and Patiala are pending, are directed to expedite the disposal of those cases preferably within two years of their institution;

(iv) the Municipal Corporations are directed that encroachments from all those public properties except falling within the direction No.(i) above and/or wherever the civil court has decided the matter in favour of the private individuals, shall be removed and the lands will be retrieved forthwith but not later than six months from today;

(v) the Municipal Corporations are further directed to constitute and notify the Enforcement and Monitoring Committees for one or more areas which shall periodically report to the Municipal Commissioner regarding the status of the encroachments, if any, their taking place or being



removed within the area. Necessary and prompt action shall be taken by the Municipal authorities to nip it in the bud;

(vi) the Municipal Corporations shall forthwith locate the encroachment prone areas and take all necessary safeguards/preventive measures against possible trespass/encroachments, viz., erecting barbed-wire fencing, displaying notice-boards containing statutory warning, etc., and make the Encroachment and Monitoring Committee of the respective area accountable for any lapse or inaction on its part;

(vii) the Municipal Corporations shall also evolve public participation in their anti-encroachment drive by constituting Vigilance Committees of the NGOs/citizens who may volunteer to inform the municipal authorities including the Enforcement and Monitoring Committees regarding any fresh encroachments so that the desired action in terms of direction No.(v) above can be taken without any delay;

(viii) if a public spirited person notices that any encroachment is not being removed and/or being allowed to take place in connivance with the employees, authorities or councillors of the Municipal Corporation, he/she shall be at liberty to institute contempt of court proceedings against such person and/or Municipal authorities for their act of willful and deliberate disobedience of the directions issued hereinabove.”

3. Learned State counsel contends that in compliance of order dated 04.10.2008, short reply by way of an affidavit of Ms. Kanwalpreet



Brar, IAS, Commissioner, Municipal Corporation Ludhiana, dated 19.07.2019 has been filed.

4. Para 1 to 4 of the affidavit dated 19.07.2019, are reproduced as under:-

“1. That the Petitioners in this Contempt petition has contended that the Respondent has violated the order dated 04.10.2008 passed in CWP no 4886 of 2003 by this Hon'ble High Court, therefore, action against the Respondent may be initiated under the Contempt of Court Act 1971. The Petitioner has mainly contended that Municipal Corporation Ludhiana during the pendency of CWP No 4886 of 2003- Courts of Its own Motion versus State of Punjab and Others had submitted list of 33 different Institutions, Annexure P-2, who were unauthorizedly utilizing the Municipal land. It is further contended by the petitioner that thereafter Municipal Corporation, Ludhiana vide its resolution dated 10th March 2008, Annexure P-5 resolved to lease out the land to its occupants for a period of 20 years i.e. for the period 2003-2022 interalia with condition that if the leased land is utilized for Commercial or Industrial purpose, the lease shall be cancelled. However, the three beneficiaries of Resolution dated 10.03.2008, Annexure P-5 namely Sita Mata Mandir, Shri Ram Charitable Hospital and Gita Mandir, all situated in Daresi Maidan, Ludhiana (serial no 3 to 5 of Annexure P-2) were utilising the part land for commercial purpose for the last 30-35 years, but this fact was knowingly withheld in the status report dated 25.08.2005, Annexure P-1 and despite the petitioner has approached the Respondent for removal of encroachment from public land, no action has been taken against the said three institutions.



2. That it is humbly submitted that as per the Municipal record, the land comprising in Khasra No. 40/30-3 and 1/24/2, Village Mahal Quila (Commonly known as Daresi ground), Hadbast No 171, Ludhiana, measuring 238-01B, which was ownership of the Provincial Govt. was transferred to Municipal Council, Ludhiana by the State Government vide its letter no 3356-SLP-55/20273 dated 07th May 1955. The mutation of the said land in the revenue record by the Revenue Authorities was however sanctioned in favour of the Municipal Council, Ludhiana as late as on 12.06.1973. Accordingly, the land measuring 23 Bigha and 1 Biswa, Village Mohal quila, Ludhiana was duly recorded in the Immoveable property register of the Municipal Council. Further, on the basis of the said entry of ownership of land, the above referred three Institutions during field survey held in the year 2003-04 on directions of this? Hon'ble High Court passed in CWP No 4886 of 2003, for identification of encroachers of the Municipal/Public land, were ranked as encroachers of the Municipal land as all these had encroached upon the Municipal land comprising in khasra no's 40/30-3 and 1/24/2, Mahal quila, Ludhiana. It is humbly submitted that the area in unauthorised possession of the said three institutions, as shown in the chart Annexure P-2, was correct as it was based on actual measurements made at site. As such the allegation levelled by the petitioner against the answering Corporation of favour & connivance with the above stated encroachers is wrong and incorrect. It is pertinent to mention here that the petitioner in this Contempt petition has unequivocally admitted that the construction for commercial use by the said three institutions was raised 30-35 years ago and this assertion leads to inevitable conclusion that the Municipal Corporation



employees did not favour the said Institutions because after the encroachment of the said Institutions was detected in the year 2003-04, no further construction what so ever was permitted at site.

3. That consequent upon the disposal of the CWP No 4886 of 2003, when the staff of Town Planning wing started process for compliance of resolution dated 10.03.2008, Annexure P-5, the Institutions under reference intimated that they have already filed Civil Suit in the learned Civil Court Ludhiana restraining the Corporation from raising any construction over suit property and that the learned Civil Court has already passed ad interim injunction against the Municipal Corporation, Ludhiana. It then emerged that in the Civil suit, the Plaintiff has interalia contended that Sita Mata Mandir and its Dharamsala was inaugurated by the then Health Minister, Punjab, in the year 1953, the Ram Charitable Hospital having an area of 3000 square yards is working since long and the Plaintiff/ Ram Lila Committee has possession over the suit property for the last 00 years and the contract for temporary installation of stalls, o round and mini circus etc. In the suit property is given by The Committee. Though the Municipal Corporation in its written tatement firmly stated that the entire suit land falls in Khsra No 40/30-3 & 1/24/2, Mahal quila and is ownership of the Municipal Corporation, Ludhiana and it has every right to use ts property yet the learned Civil Court Ludhiana on Consideration of the oral and documentary evidence on record held that the plaintiff is in possession of the suit property for long period. The learned Civil Court of Dr. B.K. Sharma, Civil Judge (Senior Division) Ludhiana finally vide detailed judgment and decree dated 03.09.2012 decreed the suit of the plaintiff and restrained



the Municipal Corporation from raising any construction over the suit property, however the construction already raised on suit property by the Municipal Corporation was protected. An appeal against the judgment and decree dated 03.09.2012, Annexure R-1, passed in the Civil Suit no. 1222/11.07.1997 by the learned Court of Dr. B.K.Sharma, Civil Judge (Senior Division) Ludhiana was filed by the Municipal Corporation, Ludhiana but the same was also dismissed on 25.01.2014, Annexure R-2, by the learned Court of Sh. Vinod Kumar Goyal, Additional District Judge, Ludhiana dated 03.09.2012.

4. That on the other hand, when a certified copy of the Jamabandi relating to land comprising in Khsra No 40/30-3 & 1/24/.2, Village Muhal quila, Ludhiana was applied and obtained from the Revenue Department, it emerged that the ownership of the land measuring 23 Bigha and 01 Biswa is in the name of the "Provincial Government". Accordingly, Deputy Commissioner, Ludhiana was requested vide letter dated 17.12.12 to intimate as regards the ownership of land, which was transferred to Municipal Corporation Ludhiana by the Government and mutation of which was sanctioned by the Revenue Authorities on 12.06.1973. When no reply was received, on visit by officials of Municipal Corporation, the Revenue officials informed that the mutation dated 12.06.73 of the land in question was later on cancelled and accordingly the ownership of land continued to be that of the "Provincial Govt." The Revenue Department has finally confirmed in writing on 14.06.2019 that ownership of land measuring 23 Bigha and 01 Biswa (2305 share out of total 2382 share out of total land? measuring 23 Bigha 16 Biswa and 08 Biswasi) is ownership of the " Provincial Govt.". A copy of the Jamabandi for the year 2016-17 is Annexure R-3. Hence



the land in possession of impugned three Institutions i.e. serial no 3 to 5 of chart Annexure P-2 is the ownership of the State Government and accordingly Municipal Corporation has no role at this stage. Otherwise also, the Municipal Corporation has been permanently injuncted by the Learned Civil Court Ludhiana vide Annexure R-1 and R-2 respective from interfering in the suit property.”

5. A perusal of above shows that order dated 04.10.2008 passed in CWP-4886-2003, has been complied with. This fact is not disputed by learned counsel for the petitioner.

6. In view of the above, the contempt is purged and rule is discharged.

August 25th, 2025

Ayub

**(SUDEEPTI SHARMA)
JUDGE**

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