

131 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15198-2026 (O/M)
Date of decision : 18.05.2026

Pritam Khatana and another Petitioners

Versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Amit Jain, Advocate
for the petitioners.

Ms. Upasana Dhawan, AAG Haryana.

Mr. Ashish Yadav, Advocate
for respondents No. 4 and 5.

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HARSH BUNGER, J. (ORAL)

1. Prayer in this civil writ petition filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for setting aside show cause notice dated 28.08.2025 (Annexure P-15); demolition order dated 12.09.2025 (Annexure P-18) as well as order dated 29.04.2026 (Annexure P-20), passed by learned District Municipal Commissioner, District Gurugram (in short 'Commissioner').

2. Petitioners claim that they are absolute owner in possession of Ahata No. 30, 31 bearing House No. 55 and 56, situated within Abadi Lal Dora of village Berka, Tehsil Sohna, District Gurugram since the time of their forefathers.

2.1 It is further averred that petitioners are also co-owners in possession of area comprised in Rect. No. 26, Killa No. 3, 4, 5, 6 and 7, measuring 2 Kanal – 16 Marla, which is recorded as gair mumkin abadi in Jamabandi for the year 2008-09 (Annexure P-1) and also in the Jamabandi for year 2023-24 (Annexure P-2).

2.2 It is stated that upto year 2013, village Berka was governed by Gram Panchayat. The aforesaid area of village Berka was included within the limits of Municipal Committee, Sohna, vide Government Notification dated 09.06.2014 (Annexure P-3).

2.3 Petitioners claim that they are in possession of their properties bounded by the boundary wall, constructed on Ahata No. 30, 31 bearing House No. 55 and 56 of Lal Dora area, comprised in Rect. No. 26, Killa No. 5 and 6 since prior to inclusion of said area in municipal limits of Sohna.

2.4 It appears that petitioner No. 1 (Pritam Khatana) filed a civil suit (CS-312-2020) before learned Additional Civil Judge (Senior Division), Sohna, seeking permanent injunction against Municipal Council, Sohna for restraining them from carving out/constructing a passage/road in the property bearing No. Ahata No. 30, 31; wherein vide order dated 23.10.2020 (Annexure P-5), the defendants were restrained from raising construction in the form of passage over the property in question.

2.5 It is averred that in the intervening night of 26.03.2025, some persons, namely, Raj Kishore, Ram Kishore, Krishan etc. demolished the backyard boundary wall of property constructed on Ahata No. 30, 31 as

well as area comprised in Rect. No. 26, Killa No. 5 and 6; whereupon a case FIR No. 120 dated 27.03.2025 (Annexure P-6) was registered.

2.6 It is also averred that during the pendency of aforesaid civil suit (CS-312-2020), the employees of Municipal Council, Sohna (respondent No. 5) prepared a false and frivolous report, trying to provide passage in aforesaid property of petitioners by visiting the spot; whereupon the petitioners filed an application under Order 39 Rule 2-A of Code of Civil Procedure, 1908.

2.7 It transpires that one Shri Suraj filed a suit (CS-156-2025) against petitioners herein and other persons, seeking injunction for restraining them from changing the nature of suit property and also from raising construction in respect of area measuring 2 Kanal – 16 Marla, comprised in Rect. No. 26, Killa No. 3 to 7.

2.8 It appears that a stay application filed in the aforesaid civil suit (CS-156-2025) was dismissed, vide order dated 08.05.2025 (Annexure P-10).

2.9 Apparently, Municipal Council, Sohna issued a notice dated 05.08.2025 (Annexure P-11), the relevant extract of which reads as under :-

“It is written to you that office of Municipal Council, Sohna has received a complaint from the office of District Town Commissioner. It is stated in the complaint that you have closed the public Rasta/passage, which since last so many years was being used by public as Rasta, which you have closed by raising wall. Therefore, you are informed by way of this notice that you should inform that this passage has been constructed by you/private owners or Gram Panchayat/Municipal Council Sohna or under any other

Government Scheme and during which periods, this passage was constructed. It is requested to your goodself that information be sent to office of Municipal Council within 2 days so that complaint be decided.

*Executive Officer
Municipal Council, Sohna”*

2.10 Thereafter, another notice dated 07.08.2025 (Annexure P-12) was issued to petitioner, calling upon him to remove the boundary wall as well as gate and to leave public passage/rasta free for smooth ingress/egress.

2.11 Petitioner No. 1 (Pritam Khatana) is stated to have submitted his reply dated 11.08.2025 (Annexure P-13) to aforesaid notices. It appears that the Executive Officer, Municipal Council, Sohna, submitted a report (Annexure P-14) that rasta/passage in question was constructed in Rect. No. 26, Killa No. 5, which is a private property of Shri Pritam Khatana and others and the work of boundary wall is being carried out by them.

2.12 Thereafter, the petitioners were served with another notice dated 28.08.2025 (Annexure P-15), the relevant extract of which reads as under :-

“You are hereby informed that you are raising unauthorized construction in Ward No. 2, Village Berka, without sanction from Municipal Council, Sohna, which is unauthorized and illegal. It is therefore written to you through this notice that you shall immediately stop raising construction work, otherwise, Municipal Council, Sohna shall remove/demolish said unauthorized construction.

Description of unauthorized construction.

Xxx

If this notice is not complied within prescribed period, then as per rules said unauthorized construction shall be demolished by Municipal Council, the expenses and fine so incurred shall be realized from you.”

2.13 Petitioner No. 1 submitted his reply dated 29.08.2025 (Annexure P-16) to aforesaid notice dated 28.08.2025 (Annexure P-15). Petitioner No. 1 submitted a further reply dated 10.09.2025 (Annexure P-17). Thereafter, Municipal Council, Sohna passed an order dated 12.09.2025 (Annexure P-18), the relevant extract whereof reads as under :-

“It references to abovesaid subject matter and with regard to Notice Ref. No. MCS/2025/3383 dated 28.08.2025 and your reply dated 29.08.2025 and 10.09.2025.

You are hereby informed in the subject matter that you have raised unauthorized construction of boundary wall in Ward No. 2, Village Berka, which is unauthorized and illegal. That under Section 203, 208 of Haryana Municipal Act, 1973, a Notice had already been issued by office under Section 203, 208 vide letter Ref. No. MCS/2025/3383 dated 28.08.2025. In non-compliance of notice, you have not stopped raising construction of unauthorized boundary wall and you have submitted reply dated 29.08.2025 in the office of Municipal Council, Sohna with regard to said notice wherein it has been stated by you that due to demolition of wall, renovation work is being carried out and on dated 10.09.2025, again a reply has been submitted in the office of Municipal Council, Sohna with regard to said notice, wherein it has been stated by you that boundary wall was constructed/existing earlier and no construction work is going on the spot. It is hereby informed to you that during the inspection of the spot on 11.07.2025 by officials of Municipal Council, with regard to a complaint, no boundary

wall was in existence on the spot/this place and on dated 20.08.2025, construction of unauthorized boundary wall was going on the spot, but despite the notice subject amatter herein, you have not removed the unauthorized construction. Therefore, your reply is hereby consigned to record room.

Xxxxxx

Keeping in view the abovesaid situation, I Suman Lata being working as Executive Officer, Municipal Council, Sohna hereby pass an order for demolition of unauthorized construction raised by you. Municipal Council can anytime remove/demolish, unauthorized construction raised by you. A copy of this order has been retained in the office of Municipal Council.

*Executive Officer
Municipal Council, Sohna
12.09.2025”*

2.14 Feeling aggrieved against aforesaid order dated 12.09.2025 (Annexure P-18), petitioners preferred an appeal before learned Commissioner, which has been now dismissed, vide impugned order dated 29.04.2026 (Annexure P-20), the relevant extract of which reads as under :-

“I have heard appellants and respondents at length. Appellants have argued that they are co-sharers in possession of Killa No. 5 and 6 of Rect No. 26 situated in Revenue Estate of Village Berka, Tehsil Sohna, District Gurugram as per Jamabandi of year 2008-2009. Appellant also referred to Civil Suit No. 312 of 2020 titled as Pritam Khatana Vs MC, Sohna, CM No. 30 of 2025 titled as Pritam Khatana Vs Suman Lata. Appellants have also referred to FIR No. 120/2025, Police Station, Bhondsi and another Civil Suit No. 156 of 2025 titled as Suraj Vs Sanjay and notices issued by Executive Officer, Municipal Council, Sohna dated 07.08.2025 and impugned notice no. MCS/2025/3383

dated 28.08.2025. Appellants have further argued that they were only renovating the boundary wall and were not constructing any new construction. Appellants also argued that construction/renovation of wall does not fall in the definition of “building”.

On the other hand respondent has argued that site/land in question is outside the Lal Dora of the village and it lies in unapproved area Gair Mumkin Abadi. No construction can be regularized or authorized in the areas which are in unapproved area. It has also been submitted that Civil Suit No. 178 of 2014 titled as Bhagwat Singh Vs Gram Panchayat had been dismissed in default on 21.07.2017 by the court of Ms. Lalita Patwardhan, ACJ (Sr. Div.), Sohna and in Civil Suit No. 312 of 2020 titled as Pritam Khatana Vs MC, Sohna there is no status quo or restraint order and same is now pending and fixed for 24.04.2026. It is further argued that other cases referred has no bearing upon the matter. It is further argued that definition of building in Haryana Municipal Act, 1973 includes a wall and as per provisions of Section 201 of Haryana Municipal Act, 1973 any erection or re-erection of any building without approval/sanction of committee is illegal and same is liable to be demolished. Moreover area in question lies in unapproved area outside the Lal Dora of the village as is evident from the map of Lal Dora/Abadi Deh of the village and no sanction can be granted by the committee in such area. It is further argued that appellants had raised construction without any sanction which cannot be granted in unapproved area. The demolition order passed by Executive Officer, Municipal Council, Sohna are legal and justified. It is further argued that there is no status quo/restraint order at present in any case regarding the site in question against the Municipal Council, Sohna.

After carefully going through the record of the file and considering the arguments of both parties, I am of the considered view that raising of wall whether it is construction or reconstruction of the wall as is admitted by the appellants comes in the definition of building as per provisions of Haryana Municipal Act, 1973 and appellants have raised wall without due sanction from committee as required under provisions of Section 201 of the Act and Executive Officer, Municipal Council, Sohna has rightly passed order dated 12.09.2025 vide memo no. MCS/2025/3616 and same is without any illegality and infirmity. I hereby confirm the order and dismiss the appeal being without any merit.”

3. In the aforementioned circumstances, the petitioners have filed the instant civil writ petition for the relief(s), as noticed hereinabove.

4. Today, Mr. Ashish Yadav, Advocate has appeared on behalf of respondents No. 4 and 5 (Municipal Council, Sohna). He submits that petitioners have not approached this Court with clean hands as they have concealed the material facts from this Court. It is submitted that petitioners have already filed a civil suit (CS-338-2025) titled as ***Pritam Khatana and another Versus Municipal Council, Sohna and others***; wherein demolition notices dated 05.08.2025, 07.08.2025, 28.08.2025 and final demolition order dated 12.09.2025 have been challenged. It is further submitted that the petitioners have also concealed the fact that an application for seeking interim injunction, filed by petitioners, in aforesaid civil suit (CS-338-2025) has already been dismissed, vide order dated 25.09.2025. It is still further submitted that the aforesaid order dated 25.09.2025 has been further challenged by petitioners by filing a Civil Miscellaneous Appeal (CMA-267-2025) before appellate Court,

which is pending for 07.07.2026. Accordingly, prayer has been made for dismissal of instant civil writ petition.

4.1 In support of said submissions, learned counsel for respondents No. 4 and 5 has handed over copies of civil suit i.e. CS-338-2025; and order dated 25.09.2025, dismissing the interim injunction application, submitted by petitioners in civil suit i.e. CS-338-2025; in Court today, which are taken on record subject to all just exceptions. Copies thereof have been handed over to learned counsel for petitioners as well.

5. I have heard learned counsel for parties and have perused the paperbook with their able assistance.

6. In the present writ petition, the petitioners have sought quashing of a show cause notice dated 28.08.2025 (Annexure P-15) as well as demolition order dated 12.09.2025 (Annexure P-18). Evidently, the petitioners have also filed a civil suit (CS-338-2025) before the learned Civil Judge (Junior Division), Sohna, wherein the following prayer has been made :-

“On the basis of above stated facts and circumstances, the Hon'ble Court is humbly prayed to:-

(a) Pass a decree of declaration to the effect that the alleged notices No. MCS/2025/2987 dated 05.08.2025, MCS/2025/3007 dated 07.08.2025 and MCS/2025/3383 dated 28.08.2025 are Illegal, unlawful, null & void, ab-initio, non-est, nullity, inoperative, arbitrary, baseless and nothing binding upon the right of the Plaintiffs in any manner whatsoever; in favour of the Plaintiffs and against the defendant, its employee or anyone on its behalf.

- (b) *Pass a decree of permanent injunction, thereby restraining the defendants, their agent, authorised persons, contractor, signatories or any appointed person under them from demolishing. or removing the backyard boundary wall of house/property of the Plaintiffs comprised in Killa No. 5 & 6 of Rect. No. 26 and Khata No.30, 31, bearing House No. 55 & 56 situated within abadi Lal, Dora 1877 of Village Berka, Tehsil Sohna, District Gurugram and also restrained from interfering into peaceful possession of the Plaintiffs in any manner whatsoever or restrained them from taking any coercive action on the basis of the alleged notices against the Plaintiff's backyard boundary of house/property; may kindly be passed in favour of the Plaintiffs and against the defendant with cost of the suit.*
- (c) *In the alternative if the defendants succeeds in their evil motive and design to demolish the house/any part of the property/backyard boundary of house of the Plaintiff during pendency of the suit in that event a decree of mandatory injunction may kindly be passed in favour of the Plaintiffs and against the defendant, whereby directing the defendant to restore the property in its original nature at their own cost and expenses after assessing the loss caused to the plaintiffs.”*

6.1 In the aforesaid civil suit, the petitioners herein had also filed an application under Order 39 Rules 1 and 2 CPC for restraining the municipal authorities from demolishing or removing the backyard boundary wall of the property in question; however, the said prayer has been rejected by the learned Civil Court, vide order dated 25.09.2025, by observing as under :-

“10. The plea of plaintiffs that the notice was vague is untenable because the plaintiffs were quite clear about the construction which the notice referred. A copy of appeal filed by plaintiffs before District Municipal Commissioner, Gurugram, is available on record, a perusal of which reveals that plaintiffs have prayed therein to set-aside demolition order bearing memo no. MCS/2025/3616 dated 12.09.2025, show cause notice no. MCS/2025/3383 dated 28.08.2025, notice no. MCS/2025/2987 dated 05.08.2025 and notice bearing no. MCS/2025/3007 dated 07.08.2025. A perusal of prayer clause of aforesaid appeal reveals that plaintiffs have also sought the relief to stay proceeding of demolition/removal of structure till final disposal of the appeal. In the present case also, the plaintiffs are seeking declaration that notice no. MCS/2025/2987 dated 05.08.2025, notice bearing no. MCS/2025/3007 dated 07.08.2025 and notice no. MCS/2025/3383 dated 28.08.2025 are illegal, null and void.

11. Be that as it may, it is apparent that the plaintiffs have availed alternative remedy by filing an appeal under Section 209 of Haryana Municipal Act, 1973 before District Municipal Commissioner, Gurugram, At this juncture, it would be apposite to peruse Section 41(h) of Specific Relief Act, which reads as under :

"An injunction cannot be granted when equally efficacious relief can certainly be obtained by any other usual mode of proceeding except in case of breach of trust".

12. Since the alternative remedy is available to plaintiffs under Section 209 of Haryana Municipal Act, 1973, which has already been availed by them by filing an appeal before District Municipal Commissioner, Gurugram, therefore, the prayer for temporary injunction to restrain the defendants from demolishing or removing the wall is barred under

Section 41 (h) of Specific Relief Act. There is no dispute about the proposition of law laid down in the authorities cited by plaintiffs. However, the same are not applicable to the facts and circumstances of the present case.

13. In view of above, no prima facie case or balance of convenience qua the relief of injunction is made out in favour of plaintiffs. For the same reason, no irreparable loss would be caused to the plaintiffs, if the injunction is not granted in their favour. Hence, the injunction application is hereby dismissed.

14. Nothing stated here-in-before be misconstrued as an expression of my opinion on the merits of this case.”

6.2 Apparently, the show cause notice dated 28.08.2025 (Annexure P-15), which is sought to be challenged in the present writ petition, the same has also been challenged by the petitioners by filing a civil suit (CS-338-2025); wherein even the interim injunction application stands dismissed, vide order dated 25.09.2025.

7. Before this Court, learned counsel appearing for the petitioners fairly submits that the factum of filing of the aforesaid civil suit (CS-338-2025) and also the order dated 25.09.2025, passed therein; has not been disclosed in the present writ petition. He further submits that the petitioners had not disclosed the aforesaid facts to him.

8. In view of the above, I am of the considered view that the petitioners have conveniently concealed the factum of filing of the aforesaid civil suit (CS-338-2025) and also the order dated 25.09.2025, passed therein. Therefore, it is clear that the petitioners have not approached this Court with clean hands and are not entitled to be heard on the merits of their grievance.

9. In ***Kishore Samrite Versus State of U.P. and others 2013(2)***

SCC 398, the Hon'ble Apex Court observed as under:-

“29. Now, we shall deal with the question whether both or any of the petitioners in Civil Writ Petition Nos. 111/2011 and 125/2011 are guilty of suppression of material facts, not approaching the Court with clean hands, and thereby abusing the process of the Court. Before we dwell upon the facts and circumstances of the case in hand, let us refer to some case laws which would help us in dealing with the present situation with greater precision. The cases of abuse of the process of court and such allied matters have been arising before the Courts consistently. This Court has had many occasions where it dealt with the cases of this kind and it has clearly stated the principles that would govern the obligations of a litigant while approaching the court for redressal of any grievance and the consequences of abuse of the process of court. We may recapitulate and state some of the principles. It is difficult to state such principles exhaustively and with such accuracy that would uniformly apply to a variety of cases. These are :

(i) Courts have, over the centuries, frowned upon litigants who, with intent to deceive and mislead the Courts, initiated proceedings without full disclosure of facts and came to the courts with 'unclean hands'. Courts have held that such litigants are neither entitled to be heard on the merits of the case nor entitled to any relief.

(ii) The people, who approach the Court for relief on an ex parte statement, are under a contract with the court that they would state the whole case fully and fairly to the court and where the litigant has broken such faith, the discretion of the court cannot be exercised in favour of such a litigant.

(iii) *The obligation to approach the Court with clean hands is an absolute obligation and has repeatedly been reiterated by this Court.*

(iv) *Quests for personal gains have become so intense that those involved in litigation do not hesitate to take shelter of falsehood and misrepresent and suppress facts in the court proceedings. Materialism, opportunism and malicious intent have over-shadowed the old ethos of litigative values for small gains.*

(v) *A litigant who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands is not entitled to any relief, interim or final.*

(vi) *The Court must ensure that its process is not abused and in order to prevent abuse of the process the court, it would be justified even in insisting on furnishing of security and in cases of serious abuse, the Court would be duty bound to impose heavy costs.* (vii) *Wherever a public interest is invoked, the Court must examine the petition carefully to ensure that there is genuine public interest involved. The stream of justice should not be allowed to be polluted by unscrupulous litigants.*

(vii) *The Court, especially the Supreme Court, has to maintain strictest vigilance over the abuse of the process of court and ordinarily meddlesome bystanders should not be granted "visa". Many societal pollutants create new problems of unredressed grievances and the Court should endure to take cases where the justice of the lis well-justifies it.*

[Refer : Dalip Singh v. State of U.P. &Ors. (2010) 2 SCC 114; Amar Singh v. Union of India &Ors., 2011(5) RCR (Civil) 386 : (2011)7 SCC 69 and State of Uttaranchal v. Balwant Singh Chauhan &Ors., 2010(1) RCR (Civil) 842 : 2010(1) R.A.J. 372 : 2010(1) S.C.T. 607 : (2010)3 SCC 402].

30. Access jurisprudence requires Courts to deal with the legitimate litigation whatever be its form but decline to exercise jurisdiction, if such litigation is an abuse of the process of the Court. In **P.S.R. Sadhanantham v. Arunachalam &Anr., (1980)3 SCC 141**, the Court held :

"15. The crucial significance of access jurisprudence has been best expressed by Cappelletti : "The right of effective access to justice has emerged with the new social rights. Indeed, it is of paramount importance among these new rights since, clearly, the enjoyment of traditional as well as new social rights presupposes mechanisms for their effective protection. Such protection, moreover, is best assured be a workable remedy within the framework of the judicial system. Effective access to justice can thus be seen as the most basic requirement the most basic 'humanright' of a system which purports to guarantee legal rights.

16. We are thus satisfied that the bogey of busybodies blackmailing adversaries through frivolous invocation of Article 136 is chimerical. Access to justice to every bona fide seeker is a democratic dimension of remedial jurisprudence even as public interest litigation, class action, pro bono proceedings, are. We cannot dwell in the home of processual obsolescence when our Constitution highlights social justice as a goal. We hold that there is no merit in the contentions of the writ petitioner and dismiss the petition."

9.1 In **Dalip Singh v. State of U.P. (2010) 2 SCC 114**, the Hon'ble Supreme Court observed as under:-

"1. For many centuries Indian society cherished two basic values of life i.e. "satya" (truth) and "ahinsa" (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system

which was in vogue in the pre-Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final."

10. From what has been stated above, since the petitioners have concealed the material facts from this Court (as noticed above); therefore, the instant writ petition deserves to be thrown out at the threshold itself.

11. Resultantly, the present writ petition is dismissed with costs of Rs. 1,00,000/- to be deposited by petitioners in the account of Punjab and Haryana High Court Clerks' Bar Association.

12. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

18.05.2026
sjks

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