
(2016) 08 P&H CK 0048

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 4464 of 2016.(O&M)

Amresh Kumar

APPELLANT

Vs

The State of Punjab

RESPONDENT

Date of Decision : 02-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 PLR 496 : (2017) 1 PLR 309

Hon'ble Judges : Mr. S.S. Saron and Mrs. Lisa Gill, JJ.

Bench : Division Bench

Advocate : Mr. Harminder Singh, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

S.S. Saron, J . - This writ petition has been filed in the nature of public interest seeking direction to the State of Punjab, Department of Local Bodies through its Secretary (respondent No.1), Municipal Corporation, Ludhiana through its Commissioner (respondent No.2) and the Deputy Commissioner, Ludhiana (respondent No.3) to take appropriate action against respondents No.4 to 14 for violating the various provisions of the Punjab Apartment and Property Regulation Act, 1995 (the "Act" - for short), the Rules framed thereunder, namely, the Punjab Apartment and Property Regulation Rules, 1995 (the "Rules" - for short), the Punjab Municipal Corporation Act, 1976 and the directions given by this Court in Court On Its Own Motion v. The State of Punjab and another, CWP No.4886 of 2003 decided on 04.10.2008 (Annexure P4).

2. The petitioner states that he is a permanent resident of district Ludhiana and being a public spirited person is dedicated towards serving the public at large, especially, in the surrounding areas of his village. It is submitted that the petitioner has been persuading less privileged families and also helping them to send their children to school. He has been contributing finances as per his capacity, besides, used to lead drives to collect some donations to pay school fee, uniform and books etc. for the said children. He has also led local area

cleanliness drives including drives initiated by the Central Government and the State Government like "Swachh Bharat Abhiyan". He has also with the help of his family, friends and like-minded persons approaching the authorities and bringing it to their notice about the illegal construction being raised by unscrupulous individuals, who are illegally encroaching upon the public land also.

3. At the time of filing the petition, the Registry had raised objection as regards the maintainability of the public interest litigation in terms of the Public Interest Litigation Rules, 2010. It was also submitted that the writ petition be filed in consonance with the directions passed by this Court in the case of Ajaib Singh and another v. State of Punjab, CWP No.15987 of 2013 decided on 26.07.2013.

4. In response thereto, the petitioner has filed his affidavit dated 26.01.2016/29.02.2016 in which he stated that he has no direct or indirect personal motive or interest involved in the case, besides, he meets the requirement of Maintainability of Public Interest Litigation Rules, 2010 and the directions issued by this Court in Ajaib Singh's case (supra). The petitioner has further stated that he is working with a private organization and drawing a salary of Rs.22,000/- per month through cheque. A copy of the account statement of the Saving Bank A/c maintained by him at a Bank at Ludhiana has been attached.

5. The averments made in the petition are not shown to be substantiated by any material on record. Except for the averments made, nothing has been brought on record to show that the petitioner has indeed been contributing and helping the public cause and the less privileged families as alleged.

6. The petitioner, in any case, alleges that the provisions of the Act are being violated. When he was asked to show as to which specific provisions of the Act have been violated, he referred to the illegal construction being raised at the behest of Dharminder Singh (respondent No.8), who is alleged to have purchased property in the area of village Gobindgarh, Tehsil Sahnewal, District Ludhiana, which has now come within the municipal limits of Ludhiana. On the said land, it is submitted, that constructions are being raised, which are depicted in the photographs (Annexure P2). However, nothing has been placed on record to show that the petitioner has brought the nature of the constructions being raised before any of the respondents No.1 to 3.

7. During the course of hearing, the learned counsel appearing for the petitioner has shown an undated representation addressed to respondents No.1 to 3 for taking action against Vinay Kumar Goyal (respondent No.4), Amarjit Singh (respondent No.5), Baljit Singh (respondent No.6), Parminder Singh (respondent No.7) residents of village Gobindgarh, besides, Dharminder Singh (respondent No.8), Mrs. Lakhmani Devi (respondent No.9), Mrs. Gayatri Devi (respondent No.10), Mrs. Uma Devi (respondent No.11), Pritam Chand (respondent No.12), Mrs. Gita Devi (respondent No.13) and Mrs. Inder Kala Yadav (respondent No.14). There is no date on the said communication and neither has it been shown as to whom the same was given, in fact, whether the same was indeed

submitted. Besides, it is purported to have been submitted by some applicants but only the name of petitioner - Amresh Kumar has been mentioned though the numbers i.e. applicants No.2, 3 and 4 are typed but the names thereof are blank. Therefore, it is quite unclear whether such a communication/ representation was indeed submitted or made.

8. Even otherwise, we find that insofar as Amarjit Singh (respondent No.5) is concerned, it has been averred by the petitioner in Para 5 that the said respondent No.5 owned land measuring 2 Kanals 10 Marlas, which he sold by way of sale deed dated 07.04.2015 to Dharminder Singh (respondent No.8). Mutation No.6415 was entered and sanctioned on 15.04.2015 in favour of Dharminder Singh (respondent No.8). If that be so, we fail to understand how Amarjit Singh (respondent No.5) can be said to be raising construction in the area if he had sold his land. Therefore, the writ petition that has been filed, is lacking in complete particulars and a writ cannot be issued lest it becomes a source of harassment and oppression for the general public when they in any manner are not liable.

9. In the circumstances, on the basis of material and a photocopy of the sale-deed that has been placed on record by learned counsel for the petitioner, we are of the view that the petitioner has no locus standi to file the petition and the same lacks in material particulars as it is not shown as to whether the petitioner indeed contributed to the public cause. In any case, he has not approached the respondents No.1 to 3, which he ought to have approached in the first instance for a petition in the nature of public interest to be maintainable. However, being a resident of the locality he may have a right to approach the court to protect the encroachments of land in the area but in the absence of any clear violations shown to the statutory provisions of the Act, it would be difficult to entertain the petition on a mere ipse dixit of the petitioner.

10. Therefore, we, at this stage, relegate the petitioner to approach respondents No.1 to 3 by making a proper representation and bringing all the necessary facts on record and the violations that are said to have been made.

11. In the circumstances, the petition, at this stage, being premature is accordingly dismissed, leaving it to the petitioner to approach the respondent-authorities.