

(2014) 09 P&H CK 0021
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 25447 of 2012

Ranjit Singh

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 04-09-2014

Acts Referred:

Citation : (2015) 177 PLR 672

Hon'ble Judges : Rajan Gupta, J

Bench : Single Bench

Advocate : R.S. Manhas, Advocates for the Appellant; V. Ramswaroop, Addl. A.G, Advocates for the Respondent

Judgement

Rajan Gupta, J.—Petitioner has sought a writ in the nature of mandamus directing respondents not to forcibly demolish "Dhaba" of the petitioner which is more than 60 years old during the pendency of eviction petition. Learned counsel for the petitioner submits that eviction proceedings against the petitioner are still pending before the concerned authority. However, respondents are bent upon to demolishing his premises. They may be restrained from resorting from such action.

2. Learned counsel appearing for Municipal Corporation-respondent No. 2 has opposed the plea. According to him, Corporation is acting pursuant to order passed by division bench of this court in CWP No. 4559 of 2007 wherein it was directed that all encroachments abutting the scheduled roads be removed.

3. I have heard learned counsel for the parties.

4. Case of the petitioner is that his father was running an eating point (Dhaba) since about 60 years in front of Rajindra Hospital, Patiala. A licence was issued in his favour by the Municipal Committee, Patiala on 07.07.1975. An electric connection was also granted in the same. The PWD (B&R) department earlier also preferred a petition for eviction of the petitioner but failed. State preferred appeal before the Commissioner whereafter matter was remanded to the

Collector for decision afresh. However, Collector again rejected the claim of the State on the ground that it had not been able to prove its title. State of Punjab again challenged the order before the appellate authority. Same was rejected on the ground of delay. It initiated fresh proceedings for the eviction of the petitioner. Ultimately same were transferred to Deputy Director, Local Bodies for decision. Grievance of the petitioner is that during pendency of eviction proceedings, respondent-Corporation be restrained from demolishing the "Dhaba". In my considered view prayer of the petitioner is mis-conceived. During pendency of eviction proceedings, he has invoked writ jurisdiction of this court to injunct the respondents from demolishing the "Dhaba" in question. No direction of this nature can be issued by way of mandamus. In case eviction proceedings against the petitioner are pending, he can move an appropriate application before the concerned authority. According to stand of the State, petitioner is running a "Dhaba" unauthorizedly on a scheduled road heading from Patiala to Sangrur. The licence stated to have been issued by Municipal Committee, Patiala was for a period of one year only i.e. 1975-76. Municipal Corporation has also relied upon direction given by Division Bench of this court in CWP No. 4559 of 2007. Under the circumstances, this court does not find it a fit case for interference in writ jurisdiction. Dismissed.