

ITEM NO.4

COURT NO.6

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 920-922/2025

[Arising out of impugned final judgment and order dated 03-12-2024 in CWP No. 8850/2022 13-12-2024 in CM No. 20311/2024 18-12-2024 in CWP No. 8850/2022 passed by the High Court of Punjab & Haryana at Chandigarh]

HARBANS SINGH & ORS.

Petitioner(s)

VERSUS

THE STATE OF PUNJAB & ORS.

Respondent(s)

Date : 09-01-2025 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH
HON'BLE MR. JUSTICE SANJAY KAROL
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) Mr. Charanpal Singh Bagri, Adv.
Dr. Gurjit Kaur Jassar Bagri, Adv.
Mr. Dhruv Kaushik, Adv.
Mr. Raj Kishor Choudhary, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

1. The Division Bench of the Punjab & Haryana High Court at Chandigarh, passed the following order in CWP No.8850 of 2022 between Kulwant Singh versus State of Punjab on 03.12.2024: -

“Shri Tejveer Singh, Addl. Chief Secretary, Department of Local Government, Punjab, appears virtually. He is directed to ensure that the encroachments existing around seven ponds within the area of Nagar Panchayat Khamano, District Fatehgarh Sahib, as mentioned in the affidavit dated 27.09.2024 filed by the Deputy Secretary, Local Government, Punjab, are removed by

following due process of law within a period of fifteen (15) days.

We have our own doubts as to whether the encroachments categorized by the State can fall within the definition of "public premises" under the Punjab Public Premises and Land (Eviction and Land Recovery) Act, 1973.

Shri Tejveer Singh, Addl. Chief Secretary, Department of Local Government, Punjab, is directed to seek proper instructions on the said aspect and ensure removal of encroachment within a period of fifteen (15) days and submit compliance report before the next date of hearing.

List on 17.12.2024."

2. Thereafter, upon an application being filed under Order I Rule 10 read with section 151 of Code of Civil Procedure, 1908, 38 (Thirty-Eight) applicants sought impleadment on the ground that their houses were being demolished and they were not given any opportunity under law. By the order dated 13.12.2024, the Division Bench allowed the said application. It further directed that the matter may be listed again on 17.12.2024 as already directed. It further granted liberty to the newly added respondents to seek remedy before the Civil Court as they were claiming to be the owners of the land in question. It further provided that till the next date fixed i.e. 17.12.2024, further demolition was stayed. The order dated 13.12.2024 is reproduced hereunder: -

"CM-20311-CWP-2024

For the reasons stated in the

application, same is allowed and the main case is taken up today on Board.

CM-20312-CWP-2024

The present application has been filed under Order 1 Rule 10 read with Section 151 CPC read with Article 226 of the **Constitution** of India for impleading the applicants as respondent Nos.11 to 48, being necessary and proper parties.

The applicant No.11 to 48 have sought impleadment on the ground that their houses, which are being demolished and they have not given an opportunity of availing remedy under law.

Miscellaneous Application is allowed and the applicants are ordered to be impleaded as **respondents** No.11 to 48.

Amended memo of parties, annexed with the application is taken on record.

CMS-20313-CWP-2024, 20314-CWP-2024 and 20315-CWP-2024

List on 17.12.2024.

Till then newly added respondents are afforded opportunity to seek remedy before civil Court, since they claim that they are owners of the land in question. Till next date of hearing, no further demolition shall take place of the houses of the newly added respondents.

In the meantime, State shall also file compliance report of removal of encroachment that has taken place till today as ordered on the last date of hearing. "

3. The matter was thereafter taken up on 18.12.2024, the Division Bench noticed that another application was filed for impleading three more applicants who were also affected by the demolition exercise. Counsel for Jaswant Singh informed that he

had already filed Civil Suit against the apprehended action of eviction as such the High Court permitted him to pursue his remedy in the light of the order dated 13.12.2024. The Division Bench further noticed that the respondents who were added by order dated 13.12.2024 had not approached the Civil Court except the one noted above.

4. It further noticed the status report filed by the State of Punjab dated 17.12.2024 mentioning that 64 (sixty-four) notices were issued to the encroachers asking them to vacate by 12.12.2024. Pursuant to the said notice, 23 (twenty-three) encroachments have been removed. Further removal was stayed in view of the stay order granted on 13.12.2024. The Division Bench, thereafter, disposed of the writ petition with the direction that if the remaining encroachers do not produce interim/restraint order of any Quasi-Judicial or Judicial Authority within a period of three weeks, the official respondents were directed to evict the remaining encroachers and report compliance by 21.01.2025.

5. The effect of the said order was that encroachers were granted protection for a period of three weeks in order to obtain interim protection, then the removal of encroachment would take place. Aggrieved by the aforesaid order, the present SLP has been filed. Order dated 18.12.2024 is reproduced hereunder:

"ORDER

1. CM-20370-CWP-2024 has been filed for impleading three applicants, namely, Gurmeet Singh, Nirmal Singh and Jaswant Singh as party respondents in the present petition.

2. Learned counsel appearing for the aforesaid three applicants/proposed respondents contends that since Gurmeet Singh and Nirmal Singh have already approached this Court, the present application is not pressed so far as both of them are concerned and is, therefore, dismissed to that extent.

3. However, the present application is continued to be prosecuted in respect of the third applicant, namely, Jaswant Singh.

4. Learned counsel for the third applicant - Jaswant Singh submits that the said applicant has already filed a civil suit against the apprehended action of eviction caused by the official respondents.

5. The third applicant - Jaswant Singh is, therefore, free to pursue his remedy in Civil Court which has already been permitted by this Court to the other alleged encroachers by an order dated 13.12.2024.

6. This Court on 03.12.2024 with an intent to put an end to the matter had directed that the encroachments over the ponds area, as shown by the State of Punjab in its return/reply dated 27.09.2024, ought to be removed within 15 days.

7. Thereafter, several alleged encroachers came to this Court and were allowed to be impleaded as respondents No.11 to 48.

8. This Court on 13.12.2024, while protecting the newly added respondent Nos.11 to 48, had afforded them opportunity to seek remedy before the

Civil Court since the question of possession and title was raised.

9. None of the newly added respondent Nos.11 to 48 or any other encroacher, as informed, has approached the Civil Court except the aforesaid two applicants, namely, Gurmeet Singh and Nirmal Singh in CM-20370-CWP-2024.

10. The State of Punjab has filed status report dated 17.12.2024 stating that 64 notices were issued to the alleged encroachers asking them to evict the land falling under the ponds by 12.12.2024, whereafter 23 encroachments have been removed. But the official respondents stayed their hands with regard to the remaining encroachers in view of the restraint order passed by this Court on 13.12.2024.

11. This Court with a view to putting quietus to this matter disposes of the petition with a direction that in case any of the remaining encroachers do not obtain and produce interim/restraint order of any quasi-judicial or judicial authority with a period of 03 weeks, then the official respondents are directed to evict the remaining encroachers from the land in question and report compliance latest by 21.01.2025.

12. In view of the aforesaid order, all the miscellaneous applications also stand disposed of."

6. The petitions raise questions of fact which would require evidence to establish them the High Court rightly relegated the petitioners to the Judicial Authority/Quasi Judicial Authority. As the High Court has provided interim protection to the petitioners to approach the Civil Court/Quasi Judicial Authority, we do not find any reason to entertain these petitions

under Article 136 of the Constitution.

7. Learned counsel for the petitioners submits that the observations made by the High Court may influence any Quasi-Judicial Authority or Judicial Authority in taking an independent decision as such it may be clarified that any observation made will not come in the way of the Quasi-Judicial Authority or Judicial Authority in taking an independent decision.

8. It is also submitted that some further time may be granted for petitioners to avail appropriate remedy before the Quasi-Judicial Authority or Judicial Authority. Considering the facts and circumstances of the case, without interfering with the impugned order, we dispose of these petitions with the following observations:

1. We make it absolutely clear that any observations made in the impugned order will not influence the Quasi-Judicial Authority or Judicial Authority where the matters may be instituted by the petitioners and such proceedings may be decided on their own merits including any interim application that may be filed.
2. The time granted by the High Court for obtaining the restraint order/interim order is extended by a further period of four weeks for the petitioners to institute their appropriate proceedings before the appropriate Forum as noted

above.

3. The parties would be free to raise all contentions before the proceedings that may be instituted by them pursuant to the order of the High Court.

4. Even those petitioners who have been evicted prior to 13.12.2024 or even thereafter would also be at liberty to institute appropriate proceedings before the appropriate Forum as directed by the High Court and seek appropriate relief.

9. Pending application(s), if any, shall stand disposed of.

(NEETU KHAJURIA)
ASTT. REGISTRAR-cum-PS

(RANJANA SHAILEY)
COURT MASTER