

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****103+211****COCP-5318-2024 (O&M)****Date of decision: 03.09.2025****Jarnail Singh****...Petitioner(s)****Vs.****Sukhdev Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. D.S.Virk, Advocate for the petitioner.

Mr. Ish Karan Singh Chhabra, Advocate
for Mr. ADS Sukhija, Advocate for respondent No.1.

Mr. Ravi Gakhar, Advocate for respondents No. 2 and 3.

NIDHI GUPTA, J.**CM-5532-CII-2025**

This is an application filed by the respondent no.3 for placing on record reply dated 17.03.2025; Sale deed dated 11.12.2008 as Annexure R-3/1/T and its translation as Annexure R-3/1; Sale deed dated 11.12.2008 as Annexure R-3/2/T and its translation as Annexure R-3/2 and for seeking exemption from filing certified copies of the Annexures.

Application is **allowed**; and the said documents are taken on record as Annexures R-3/1/T, R-3/1; R-3/2/T; and R-3/2 with reply, subject to all just exceptions. Registry is directed to tag the same at appropriate place.

COCP-5318-2024 (O&M)

Present Contempt Petition has been filed by the petitioner alleging violation of order dated 04.10.2008 (Annexure P-1) passed by a



Division Bench of this Court in **CWP No. 4886 of 2003** titled as **Court on its own motion vs. State of Punjab and another**; wherein following directions were issued to the Municipal Committees:-

“[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



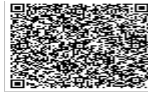
pending, are directed to expedite the disposal of those cases preferably within two years of their institution;

(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

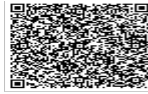


action in terms of direction No.(v) above can be taken without any delay;

(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.”

2. Learned counsel for the petitioner submits that the said directions of the Hon’ble Division Bench of this Court have not been complied as, respondent No.3, who is neighbour of the petitioner, has constructed a ramp in front of his house which has covered the street road approximately 5-6 feet wide thereby, causing encroachment upon the wide public road. It is submitted that respondent No. 3 also parks his car on the other side of the street and creates hurdles to the petitioner and others to cross their vehicles through the street due to construction of the said illegal ramp. Ld. counsel submits that the respondent No.3 has his house in the same street in which the petitioner's house is situated. In this regard, learned counsel refers to the Photographs Annexure P-2.

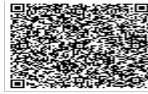
3. Learned counsel further submits that the petitioner himself has requested the respondent No.3 number of times to demolish the illegal ramp constructed by him in the front of his house, but he has not paid any heed to the requests of the petitioner. It is contended that it is



the duty of the Respondent Municipal Committee, Khamano to keep the public passage free from any encroachment or from exploitation. However, the Municipal Committee, Khamano in this case has turned blind eye towards this encroachment in spite of the fact that the same has been brought to the notice of Municipal Committee, Khamano on many occasions, including vide application dated 12.07.2024 to the respondent No.1 (Annexure P-3). Even thereafter several representations (Annexure P-4 and P-5) have been made to the concerned authorities however, no action has been taken thereupon by the respondents. It is contended that the acts/omission of the respondents in not removing the encroachment from the public area is therefore, violative of the directions passed by this Court vide order dated 04.10.2008 in the above-mentioned Civil Writ Petition.

4. Learned counsel appearing for the respondents vehemently oppose submissions made on behalf of the petitioner and submit that first and foremost, the present Contempt Petition is not maintainable being barred by limitation.

5. Learned counsel for respondent No.3 further submits that respondent no.3 is owner in lawful possession of the subject property, and no encroachment has been committed by the respondent No.3. In this regard, learned counsel refers to Sale Deed dated 11.12.2008 (Annexure R-3/1/T) and Sale Deed dated 11.12.2008 (Annexure R-3/2/T); as also the photographs (Annexure R-3/3 to Annexure R-3/10) in particular to photograph Annexure R-3/7 demonstrating that no encroachment has



been committed by respondent No.3. Learned counsel further submits that the present petition is nothing but a misuse of the contempt process at the instance of the petitioner as the photographs reveal that the ramp of the house belonging to Jagtar Singh (who is neighbour of the petitioner and respondent No.3) is protruding more into common street/public rasta than that of respondent No.3. It is contended that the petitioner has misused the due process of law for his own personal vendetta against respondent no.3.

6. Learned counsel for respondent No.3 further submits that the present petition is misconceived, frivolous, and an abuse of the process of law. The petitioner has deliberately suppressed material facts and misrepresented the nature of the dispute to mislead this Hon'ble Court. The passage in question is not a public street but a private passage, exclusively used by the four co-owners of the joint, unpartitioned land. The answering respondent is an equal shareholder in the said property and has every right to use the passage as per his convenience. The petitioner, instead of seeking an appropriate remedy through partition proceedings before the competent civil court, has wrongfully invoked contempt jurisdiction, which is entirely misplaced in the present case. The alleged encroachment, if any, does not affect any public authority or any shareholder of the joint property. Accordingly, dismissal of the Contempt Petition is prayed for.

7. Learned counsel for respondent No.1 supports submissions made on behalf of respondent No.3 and refers to submissions made in



written reply dated 14.02.2025 filed by way of Affidavit by Sukhdev Singh, Executive Officer, Nagar Panchayat, Khamanon and submits that respondent No.3 *“has shortened the ramp in question upto 1 foot 3 inches at his own level and thus the encroachment on the street has been removed.”* In this regard, learned counsel for respondent no.1 refers to photographs attached with the said written reply.

8. No other argument is raised on behalf of the parties

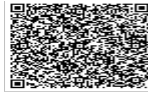
9. I have heard ld. counsel and perused the case file in detail.

10. No rejoinder has been filed by the petitioner to the written replies submitted by the respondents. As such, petitioner has not denied the above said averments made by the respondents. Thus, as per the undisputed factual aspect of the matter noted above, it is clear that there is no encroachment by respondent no.3. Therefore, no contempt is made out against the respondents.

11. Even otherwise, the present contempt petition is not maintainable as it fails to satisfy the essential ingredients required for invoking the contempt jurisdiction of this Court. As per Section 2(b) of the Contempt of Courts Act, 1971, Civil Contempt is defined as follows: -

(b) "civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;

12. In the present case, no wilful disobedience of the order dated 04.10.2008 is made out by the respondents. It appears from the facts noted above that the present is a private dispute between the parties



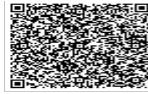
which the petitioner is attempting to bring within the purview of the contempt jurisdiction. The same cannot be permitted. Even assuming the assertions of the petitioner to be correct, the same raises disputed questions of fact which cannot be adjudicated upon in the contempt jurisdiction. Even otherwise, allegations of the petitioner are vague. Even no date has been mentioned by the petitioner as to on what date, the respondent No.3 committed alleged encroachment.

13. In any event, the present petition is barred by limitation. As per Section 20 of the Contempt of Courts Act, 1971 *“No Court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.”* Thus, a contempt petition cannot be entertained at this belated stage in respect of order dated 04.10.2008.

14. In a recent judgment, the Hon'ble Supreme Court in ***S. Tirupathi Rao v. M. Lingamaiah and Others (SC): Law Finder Doc Id # 2618555*** has held that:

“Delay in filing a contempt petition should be adequately justified, and the court must adhere to the limitation period stipulated under Section 20 of the Contempt of Courts Act.

A. Contempt of Courts Act, 1971 Section 20 Limitation for actions for contempt The High Court's judgment allowing a review petition without adhering to the limitation period was erroneous The contempt petition was barred by limitation as it was filed more than five years after the order, and no sufficient cause for delay was shown - The concept of



"continuing wrong" must be adequately pleaded and established to overcome the limitation bar."

15. Thus, keeping in view the above noted factual and legal aspect, present Contempt Petition is hereby **dismissed**.

16. **Rule stands discharged.**

17. Pending applications, if any, stand disposed of.

03.09.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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