

**223 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

COCP No.2169 of 2016

DATE OF DECISION:09.11.2017

Baghera Singh & others

...Petitioners

Vs.

Sanjeev Sharma & others

..Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Ishan Gupta, Advocate
for the petitioners.

Mr. Sunil Kumar Sharma, Advocate
for respondent Nos.1 & 2.

Mr. Navdeep Chhabra, DAG, Punjab.

DAYA CHAUDHARY, J.(ORAL)

Petitioners have filed the present contempt petition for non-compliance of undertaking dated 18.01.2016 given by the defendants in Civil Suit No.901 dated 13.10.2015 titled as Baghera Singh and others Vs. Senior Executive Engineer and others and subsequent order dated 18.01.2016 passed in the civil suit as well.

The statement was made by Sanjeev Sharma SDE on behalf of defendant Nos.1 & 2 stating that they will not encroach the suit property and dismantle the building of the plaintiff. The defendant will do any work as per law.

In response to contempt notice, reply has been filed which is on record.

Learned counsel for the respondents submits that petitioners have encroached upon the land and it was orally assured by all the villagers that the unauthorized construction will be removed and thereafter,

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unauthorized construction was removed. Subsequently, some of the villagers did not sign their oral undertaking. Learned counsel for the respondents has also brought to the notice of this Court that the petitioners have filed CWP No.15569 of 2016 for the same relief but the said petition was dismissed vide order dated 05.09.2017 by mentioning that nature of dispute raised by the petitioners is as such which can be determined after parties to the lis lead their respective evidence and petitioners have been relegated to the civil Court for their grievance. A copy of the order has also been handed over to this Court.

No doubt in the present contempt petition also disputed facts are there. Learned counsel for the petitioner submits that no oral consent was given by the villagers. The disputed questions of facts cannot be decided in the contempt petition and the same can be proved by way of evidence from both sides. The contempt proceedings cannot be initiated.

However, petitioners are at liberty to avail the appropriate remedy.

Disposed of.

09.11.2017
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(DAYA CHAUDHARY)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether reportable:</i>	<i>Yes/No</i>