

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.15421 of 2016
Date of decision: 01.08.2016

Raghav Gupta

... Petitioner

Vs.

Commissioner, Gurgaon Division, Gurgaon and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. B.S. Khehar, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner has approached this Court against an apprehended action including vacation of stay order by the appellate authority.

It is the own pleaded and argued case on behalf of the petitioner that his statutory appeal (Annexure P-2) is pending before the appellate authority-respondent No.1. During pendency of the appeal, the appellate authority had already passed a stay order dated 26.07.2016 (Annexure P-3), which is still operating in favour of the petitioner. However, the respondent Municipal Corporation alleging that the petitioner, under the garb of the abovesaid stay order, is carrying out further construction, sought vacation of stay order as well as pre-ponement of date of hearing. On the said application, the appellate authority has only ordered pre-ponement of date of hearing from 02.09.2016 to 01.08.2016 by way of order (Annexure P-5).

It is contended on behalf of the petitioner that petitioner is not

carrying out any construction under the garb of stay order, as wrongly alleged by the respondent Corporation in the application (Annexure P-4).

Be that as it may, the fact remains that stay order is still operating in favour of the petitioner. It is also expected from the appellate authority that once it has already granted stay during the pendency of the appeal, said stay order shall not be vacated until and unless a very strong case is made out against the petitioner to the effect that he was misusing the said stay order.

Since the appellate authority is yet to pass an appropriate order on the application for vacation of stay, present writ petition is premature on the fact of it and the same is dismissed as such.

[RAMESHWAR SINGH MALIK]
JUDGE

01.08.2016
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No