

216

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.17981 of 2015 (O&M)

Date of Decision: 03.10.2016

Adept Ware Housing and Logistics

..... Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE MR. JUSTICE SUDIP AHLUWALIA**

- | | |
|--|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |
| 3. Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |
| 4. To be referred to the Reporters or not? | Yes/No |
| 5. Whether the judgment should be reported in the Digest? | Yes/No |

Present: Mr. M.S. Doabia, Advocate,
for the petitioner.

Mr. R.D. Sharma, DAG, Haryana.

SURYA KANT J. (ORAL)

1. Grievance of the petitioner is against the order dated 13.07.2015 whereby its request for grant of extension/renewal of Change of Land Use permission for setting up of warehouse at Village Khalikpur, District Jhajjar has been declined.

2. The facts are not in dispute. The petitioner is a partnership firm and it owns land in Village Khalikpur, District Jhajjar. The petitioner wanted to set up a warehouse for which it was required to seek Change of Land Use permission under the provisions of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1965 as applicable to the State of Haryana. Requisite permission was duly granted to

the petitioner vide memo dated 17.07.2013 for a period of two years. The

petitioner could not construct the warehouse within the stipulated period and meanwhile permission stood expired. The petitioner applied for grant of extension for one year as per the Rules but such request has been declined primarily on the ground that if the petitioner could not raise construction within two years, then there was no likelihood of it constructing the warehouse. The aggrieved petitioner has filed this writ petition.

3. The respondents have in their reply/affidavit taken a preliminary objection that the order under challenge is appealable under the Act and that the one year extension was declined to the petitioner, for it being in financial constraints, is not in a position to construct the warehouse.

4. Learned counsel for the petitioner on the other hand submits that there is a change in the circumstances and the petitioner is now in sound financial condition and is capable to execute the sanctioned project. It is also not averse to file the appeal and apprise the appellate authority the changed circumstances but for the apprehension that the appeal might not be rejected being not maintainable or barred by limitation.

5. Having regard to the fact that the respondents themselves have taken the objection *re*: availability of remedy of appeal, we are of the considered view that the appellate authority cannot reject the petitioner's appeal on the ground of maintainability. It is thus directed that if the petitioner files an appeal within a period of one month, the same shall be entertained by the appellate authority. Since the petitioner has been pursuing this writ petition filed in the year 2015, no objection of limitation shall be taken by the respondents or entertained by the appellate authority, if the appeal is filed within the above stipulated period. The appeal shall be

decided on merits keeping in view the changed circumstances sought to be relied upon by the petitioner. It shall be appreciated if the appeal is decided within a period of four months of its filing.

6. With these observations and directions, the writ petition stands disposed of.

**(SURYA KANT)
JUDGE**

03.10.2016

Bhumika

**(SUDIP AHLUWALIA)
JUDGE**