

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

CWP-1818-2016

Date of decision:- 28.01.2016

Kamal Kant Jain and another

...Petitioners

Versus

Chandigarh Administration and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Vikas Bahl, Senior Advocate,
with Mr. Alok Kumar Jain, Advocate,
Mr. Vikas Jain, Advocate,
and Mr. Aman Singh, Advocate,
for the petitioners.

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S.J. VAZIFDAR, A.C.J. (ORAL)

Issue notice of motion returnable forthwith.

Service is waived, as Mr. Shekhar Verma, learned counsel accepts
notice on behalf of the respondents.

The petitioners are aggrieved by an order of respondent No. 1 -
Adviser to the Administrator dated 30.10.2013 rejecting their application.

2. The petitioners' SCF No. 17, Sector 22-D, Chandigarh was
resumed on account of certain building violations. The revisional authority
i.e. the Advisor to the Administrator, however, by an order dated 20.07.2001
set aside the resumption order subject to the petitioners remedying the
breaches within six months. The period for complying with the order was
extended by two weeks. Ultimately, proceedings were adopted under the
Public Premises (Eviction of Un-Authorized Occupants) Act, 1971
(in short the Act). The Estate Officer passed an order of eviction. During the
pendency of the proceedings, the petitioners filed an application before the

revisional authority for three reliefs, namely, sanctioning the revised building plans in respect of the SCF or in the alternative to grant extension of time to get the revised building plans sanctioned in terms of the order of the revisional authority and to direct the respondents to treat the site in question as restored on the ground that the petitioners had duly complied with the orders of the revisional authority by removing all non-sanctionable or non-compoundable violations and having submitted the revised building plans. This application was rejected by the impugned order dated 30.10.2013.

3. The order dated 30.10.2013, however, does not deal with the question as to whether the petitioners had in fact removed all the violations and had complied with the order of the revisional authority dated 20.07.2001 as modified by the order dated 20.03.2002 granting extension of time to comply with the order.

4. It is open, therefore, to the petitioners to contend in the appeal under the Act that they had complied with the order of the revisional authority. The point is kept open.

In the event of this aspect of the matter being decided in favour of the petitioners, in all probability, the appeal would be allowed.

5. If the petitioners are aggrieved by the order of the appellate authority, they are always at liberty to challenge the same in accordance with law.

6. We do not intend interfering with the order of the revisional authority upon the petitioners' application for the above three reliefs at this stage. In the event of the appeal being decided in the petitioners' favour, it would be academic.

7. The interests of the petitioners are safeguarded by granting them liberty to challenge that order by a fresh writ petition in the event of it being necessary for them to do so including on account of the appeal under the Act being decided against them.

The status quo granted by the appellate authority shall continue for a period of two weeks after the service of the order in the appeal upon the petitioners and the same being adverse to the petitioners.

8. The petitioners undertake not to apply for adjournment in the appeal on any ground except today.

9. All the contentions of the parties are kept open including as to whether the appellate authority can go into the question as to whether the petitioners have complied with the order of the revisional authority.

10. The writ petition is accordingly disposed of.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE

28.01.2016
Amodh