

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-23805-2015

Date of decision: 04.08.2016

Deepak Sharma and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

PRESENT: Mr. R.S. Hooda, Advocate for the petitioners.

Ms. Shubhra Singh, Addl. A.G., Haryana.

AJAY KUMAR MITTAL, J. (ORAL)

1. The petitioners have impugned the order dated 15.09.2015 (Annexure P-10) passed by respondent No. 4-District Town Planner, Enforcement, Gurgaon whereby the request of the petitioners for regularization of unauthorized construction within 30 M restricted belt of National Highway/Scheduled Road-site at NH-8, village Kukrola, District Gurgaon has been declined.

2. Learned State counsel has raised preliminary objection that against the aforesaid order, the petitioners have an alternative remedy of appeal under Section 12C(3) of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (for short 'the Act') as inserted by Haryana Act No. 11 of 1999 before the Tribunal constituted under the Act. It was urged that the petitioners be relegated to the said remedy of appeal before the Tribunal.

that disputed questions of fact are involved herein and also preliminary objection has been raised by learned State counsel regarding availability of alternative remedy of appeal under the Act before the Tribunal, we dispose of the instant petition by relegating the petitioners to avail the alternative remedy of appeal before the Tribunal, in accordance with law.

4. In case, an appeal is filed within 30 days from today, the same shall not be dismissed on the ground of limitation. However, for 30 days from today, the status-quo qua the construction in all respects shall be maintained.

5. Needless to say, anything observed herein before shall not be taken to be expression of opinion on the merits of the controversy.

(AJAY KUMAR MITTAL)
JUDGE

August 04, 2016
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No