

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

**LPA No.772 of 2015 (O&M)
Date of Decision: 16.02.2016**

Vinod Kumar Tandon & Anr.

... Appellants

VS.

State of Haryana & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE P.B. BAJANTHRI**

Present: Mr. Amit Aggarwal, Advocate for the appellants

Ms. Kirti Singh, DAG Haryana

Mr. Deepak Manchanda, Advocate
for respondents No.2&3

Mr. Saurabh Goel, Advocate
for respondents No.5&6

SURYA KANT, J. (Oral)

(1) This Letters Patent Appeal is directed against the order dated 28.04.2015 passed by the learned Single Judge whereby the appellants' writ petition was disposed of as having become infructuous though with liberty to raise their plea before the appellate authority in the pending appeal filed by respondents No.5&6.

(2) The controversy pertains to the misuse of residential premises situated in Palika Vihar, Ambala City. The appellants as well as the private respondents No.5&6 are residents of the said locality. The case of appellants was that the private respondents have converted their residential premises into 'commercial'

thereby causing immense hardship, inconvenience and nuisance to the neighbours including the appellants.

(3) The aggrieved appellants earlier came to this Court in CWP No.23830 of 2013 in which, upon notice the Commissioner, Municipal Corporation, Ambala filed a status report to the effect that the premises which was found running in unauthorized manner for commercial activities had been sealed or closed down. The writ petition was accordingly disposed of as infructuous.

(4) Aggrieved by sealing of their premises, respondents No.5&6 filed statutory appeal before the Divisional Commissioner, Ambala who passed interim order directing the de-sealing of their premises (P9).

(5) The afore-mentioned interim order was challenged by the appellants in the writ petition which learned Single Judge has disposed of as infructuous with liberty to them to contest the appeal.

(6) Learned counsel for the parties were heard on 30.06.2015 when an order restraining the private respondents, appellants as well as other residents of locality from misusing their premises for a purpose other than residential was passed.

(7) Vide subsequent order dated 03.08.2015, the Principal Secretary, Local Government Department, Haryana was directed to hold a fact-finding enquiry as the Municipal authorities were

prima facie found hand in glove with those who were misusing their residential premises.

(8) Status report has also been taken on record.

(9) Meanwhile, counsel for the appellants has placed on record the order dated 04.08.2015 vide which the Commissioner, Ambala Division has dismissed the appeal filed by respondents No.5&6 observing as follows:-

“I have heard the counsels for both the parties and have perused the facts came on case file and record produced by Municipal Corporation. In present case, the dispute is pertaining to property No.161 Palika Vihar. As per facts came on record any map is not sanctioned to ground floor of this building and it is being used by appellants for commercial activities. On dated 02.12.2002 Municipal Corporation has approved the map its first floor as ‘residential’. When map of ground floor of this building is not approved then how map of first floor has been approved. This is a matter of grave concern that buildings within jurisdiction of Municipal Corporation are being built without approving maps and are being used for purposes other than designated purposes. As per record produced before me by Municipal Corporation, building plan of property no.187 is not approved and as per counsel for appellants it is being used for commercial activities. Therefore, in this regard, appropriate action be taken immediately by

*Commissioner, Municipal Corporation, Ambala
as per rules.”*

(10) In view of the above-stated finding returned by the appellate authority, we are satisfied that respondents No.5&6 and/or any other resident cannot misuse their residential premises for a purpose other than residential in violation of building Byelaws.

(11) For the reasons afore-stated, the appeal is allowed; the order passed by learned Single Judge is modified and the writ petition filed by the appellants stands disposed of in terms of above directions.

(Surya Kant)
Judge

16.02.2016
vishal shonkar

(P.B. Bajanthri)
Judge