

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

CWP No.3490 of 2015
Date of decision : 27.01.2017

Gurmeet Singh

...Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Mohd. Yousaf, Advocate for the petitioner.

Ms. Monica Chhibber Sharma, DAG, Punjab.

Mr. H.P.S. Ghuman, Advocate for respondent Nos.2 and 3.

AMIT RAWAL, J. (Oral)

The petitioner is aggrieved of the impugned notice dated 12.01.2015 (Annexure P-3) purported to have been issued under Section 269 of Punjab Municipal Corporation Act, 1976 ordering for demolition of unauthorized construction within a period of 7 days failing which the construction will be sealed.

Contention of Mr. Mohd. Yousaf, learned counsel appearing on behalf of the petitioner is that no doubt as per the provision of Sub-Section 2 of Section 269 of the aforementioned Act, if, in case, order of demolition had been passed or communicated to petitioner, same would have been appealable by filing the appeal before the District Judge, but there is no order on the file. Since written statement do not enclose the copy of the order except bald statement with regard to the passing of the order on 11.04.2014.

This Court vide order dated 24.01.2017, called upon Executive

Officer to be present in Court. However, it should have been Commissioner. Mr. Naresh Kumar, Assistant Town Planner, Municipal Corporation, Patiala is present in Court with file and submits that no order of demolition has been passed.

I have heard learned counsel for the parties and appraised the paper book.

Once proceedings initiated by the Municipal Corporation is without jurisdiction, of course, the person would have a right to invoke the extra ordinary writ jurisdiction of this Court. Prima facie notice of demolition was not backed by any order. The authorities at the helm of affairs are required to adhere to the provision of law, so that aggrieved person can avail the remedy as prescribed under the Act.

Once the file, brought to the notice of this Court does not reveal any passing of the order dated 11.04.2014, in my view, notice Annexure P-3 is without jurisdiction.

Resultantly, same is hereby quashed with liberty to the respondent(s) to take action in accordance with law as indicated above.

In case any such order is passed and communicated to the petitioner, he shall be at liberty to avail the remedy of appeal under Section 269(2) of Act.

Petition stands disposed of.

27.01.2017

pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No