

CWP No.24024 of 2017

[1]

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

**CWP No.24024 of 2017
Date of decision:25.10.2017**

Samunder Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Vivek Khatri, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

The petitioner purchased Plot No.103 in the Officers House Building Cooperative Society on 17.10.2003, on which he raised the construction. The Municipal Corporation, Hisar (hereinafter referred to as the "Corporation") served a show cause notice dated 12.04.2017 upon the petitioner under Section 261 of the Haryana Municipal Corporation Act, 1994 (hereinafter referred to as the "Act") for raising illegal construction. After receiving his reply, an opportunity of personal hearing was given to him on 18.04.2017 and it was found that the petitioner illegally removed the seal and entered the premises. Therefore, a letter was written to the SHO, Police Station Sadar, Hisar to take legal action under Section 188 IPC and the building be also got vacated with the police help so that the same can be re-sealed. Spot inspection was carried out in presence of both the parties and during the spot inspection, the petitioner stated that the building had already been constructed and he had not raised any new construction but

only repair has been done, whereas the Building Inspector had stated that the construction has been raised in the restricted area, which has to be regularized in terms of the policy dated 21.03.2012 by the Town and Country Planning Department but the petitioner has failed to present any such document of regularization of construction in the restricted area. Ultimately, it was found that on 14.06.2016, the building was sealed but the petitioner forcibly entered the premises/building by removing the seal on his own. Consequently, the impugned order was passed by the Commissioner, Municipal Corporation, Hisar, on 02.08.2017.

Aggrieved against the said order, the petitioner filed appeal before the Commissioner, Hisar Division, Hisar, which was also dismissed vide order dated 13.09.2017 and hence, the present petition.

Learned counsel for the petitioner has repeatedly argued that the petitioner has been paying house tax, therefore, it cannot be held that the petitioner has raised the construction unauthorizedly.

This argument of the petitioner cannot be accepted because the allegation against the petitioner are serious in nature inasmuch he has been found flouting the law by removing the seal, put by the Corporation, on his own, entered the building for the purpose of raising construction and when he was confronted, he has admitted to have done it but for the purpose of repair. Under the provisions of Section 261 of the Act, the respondents have the jurisdiction to pass the impugned order and merely that the petitioner has been paying the house tax will not make any difference.

The very fact that the petitioner has been found indulging in flouting the order of sealing dis-entitles him from any kind of relief.

Moreover, the petitioner has also been found violating the law much-less entering the building by removing the seal put up by the Corporation on his own and raised construction under the garb of repair.

Thus, in view of the aforesaid, the present petition is hereby dismissed being denuded of any merit, though without any order as to costs.

October 25, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No