

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

106

CWP-10014-2018

Date of Decision: 24.04.2018

ASHOK KUMAR AND ANR.

....Petitioner(s).

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s).

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. M.K. Sood, Advocate
for the petitioners.

AJAY KUMAR MITTAL, J. (Oral)

The petitioners have approached this Court through the instant petition filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of certiorari for quashing of impugned order dated 20.04.2018 (Annexure P-9) issued by respondent No.4 under Section 18 (2) of the Haryana Urban Development Authority Act, 1977 (hereinafter referred to as 'the HUDA Act'). In addition to the aforesaid, challenge has also been made to the notice dated 05.03.2018 (Annexure P-7) issued under Section 18(1) of the HUDA Act.

2. Briefly, as facts stated in the petition, we noticed that notice under Section 18(1) of the HUDA Act was issued to the petitioners on 05.03.2018, copy of which has been appended as Annexure P-7 (Colly.).

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3. It was urged that in response to Annexure P-7, the petitioners have submitted their reply Annexure P-8 (Colly.) on 12.03.2018 raising objections thereto. It was contended that without deciding said objections, a notice under Section 18(2) of the HUDA Act has been served for vacating the premises in dispute. Learned counsel submitted that Annexure P-9 has been issued without deciding Annexure P-8 and in such circumstances, Annexure P-9, whereby the petitioner has been granted 24 hours to vacate the premises, failing which, coercive action would be taken, is legally unsustainable. Section 20 of the HUDA Act provides that an appeal is maintainable against the impugned notices issued by respondent No.4 under Section 18 of the HUDA Act. Section 20 reads thus:-

“Appeal.

“20. (!) Any person aggrieved by an order of the Collector under section 18 or section 19 may, within a period of thirty days from the date of the service of notice under section 18 or section 19, as the case may be, prefer an appeal to the Director, or such other authority, as the State Government may appoint in this behalf:

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Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time,

(2) Where an appeal is preferred under sub-section (1), the appellate authority may stay the enforcement of the order of the Collector for such period and on such conditions, as it deems fit.

(3) Every appeal under this section shall be disposed of by the appellate authority as expeditiously as possible.”

4. In view of the above, we dispose of the present writ petition by permitting the petitioners to file an appeal before the competent authority within 15 days from today. In case, an appeal is filed, the same shall be decided by the appellate authority within next one month after affording an opportunity of hearing to the petitioners, by passing a speaking order on merits, in accordance with law.

5. It is clarified that, in case an appeal is filed within 15 days from today then no coercive action shall be taken against the

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petitioners till the decision of the appeal by the appellate authority. However, in case, no appeal is filed within the stipulated time, it shall be open to the respondents to proceed further in accordance with law.

6. Needless to say, anything observed hereinbefore shall not be taken as an expression of opinion on the merits of the case.

(AJAY KUMAR MITTAL)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

24.04.2018

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Whether speaking/reasoned : YES/NO
Whether reportable : YES/NO