

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.19688 of 2018

Date of Decision: August 08, 2018

Parveen Kumar and another

.....Petitioners

versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.Nipun Vashist, Advocate, for the petitioners.
Mr.Sandeep Moudgil, Additional AG, Haryana.

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Surya Kant, J. (Oral)

Notice of motion.

On our asking, Mr.Sandeep Moudgil, Additional Advocate General, Haryana, accepts notice on behalf of the respondents.

Let four copies of the writ petition be handed-over to him during the course of day failing which this order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.

In view of the nature of order which we propose to pass, it is not necessary to seek any counter-reply from the respondents at this stage as no order on merits prejudicial to their interest is being passed.

The petitioners are residents of village Maidawas, Tehsil and District Gurugram. It is averred that a part of the revenue estate of their village falls in Sector-64, Urban Estate, Gurugram. The petitioners have been served with show cause notice(s) under Section 12(2) of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated

District Town Planner, Enforcement OMDA, Gurugram, alleging that they have raised unauthorized construction in violation of the provisions of the Act and that they should respond to the notice(s) by 01.06.2018 to explain as to why unauthorized construction be not demolished. One of the show cause notice issued to petitioner No.2 has been appended as Annexure P-6. It is alleged that in fact the show cause notices were never served on the petitioners and they came to know on 03.08.2018 when Munadi was conducted in the village.

Be that as it may, the petitioners have statedly submitted their reply on 03.08.2018 claiming that their houses are in 'abadi deh' of the village, hence those cannot be termed as unauthorized construction violating any provision of 1963 Act. The petitioners now apprehend that their houses can be demolished at any time and since no Appellate Tribunal has been constituted by State of Haryana under the Act, they are left with no other remedy but to approach this Court.

We have heard learned counsel for the parties and are of the view that the petitioners deserve an effective hearing by the Prescribed Authority before carrying out any demolition.

The writ petition is thus disposed of with a direction to the District Town Planner, Sector-14, HSVP Office, Gurugram to give an opportunity of hearing to the petitioners to submit their self-explanatory reply alongwith supporting documents by 13.08.2018. The petitioners shall be heard in person at the earliest and notices to this effect be sent on their mobile-phone which they shall disclose in their reply-cum-objections. In case the Authority holds that the petitioners have raised unauthorized construction, they shall be granted atleast two weeks' time to file appeal.

Resultantly, *status-quo* re: demolition or further construction by the petitioners be maintained at the site till any decision is taken by the Prescribed Authority on stay matter.

Dasti.

[SURYA KANT]
JUDGE

August 08, 2018
mohinder

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No