

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

CWP No.4604 of 2018
Date of Decision: 26.02.2018

Sunil Kumar

...Petitioner

VS.

State of Haryana & Ors.

... Respondents

Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Shekher Dhawan

Present: Mr. Vipin Yadav, Advocate for the petitioner

SURYA KANT J. (Oral)

(1) The petitioner has laid challenge to the order dated 09.02.2017 (P5) whereby the Director, Town and Country Planning, Haryana declined to compound the unauthorized construction and consequently, has rejected the petitioner's request for grant of Change of Land Use (CLU) permission. The petitioner is equally aggrieved by the order dated 14.09.2017 (P6) whereby the State Government has dismissed his appeal against the above-mentioned order of Director, Town and Country Planning.

(2) The facts are like this. The petitioner purchased land measuring 986.41 sq.meters out of khasra No.169/11/2 in the revenue estate of village Gangwa, Tehsil and District Hisar. The petitioner claims that he applied for grant of CLU permission for setting up Food Processing Unit at the site.

(3) The above-stated request was turned down by the authorities after finding, as a matter of fact, that there exists an unauthorized construction at the site for which no permission was taken. It has also come on record that the land in question now falls within the limits of

Municipal Corporation, Hisar and the building which exists at the site was constructed without getting the building plans sanctioned from the Municipality. It has been further found that the plot purchased by petitioner in fact is a part of the unauthorized/illegal residential colony developed within the revenue estate of village Gangwa. It is in this backdrop that the authorities have directed the petitioner firstly to demolish the unauthorized construction and thereafter apply for CLU permission in accordance with law. His request for composition of violations has been turned down.

(4) The petitioner claims that in some other districts, the construction like the one raised at his site have been regularized by levying compounding fee and similar treatment should be extended in District Hisar as well.

(5) We have considered the submission as also the provisions of the Punjab Scheduled Roads and Controlled Area Restriction of Unregulated Development Act, 1963 as well as provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 which have been relied upon against the petitioner. We, however, do not find any merit in the submissions. So long as a piece of land is located outside the municipal limits, the provisions of 1963 Act are applicable whereunder the land cannot be utilized for a purpose other than agricultural purposes without prior permission of the Prescribed Authority. Similar restrictions are imposed on the urban/municipal land under the 1975 Act. It is undeniable that there exists unauthorized construction at the site which cannot be compounded. In this view of the matter, no effective relief can be granted unless the unauthorized construction is removed; land is

restored to its original nature and thereafter the petitioner applies for grant of CLU permission in accordance with law.

(6) For the foregoing reasons, the writ petition is dismissed being devoid of merit.

(Surya Kant)
Judge

26.02.2018
vishal shonkar

(Shekher Dhawan)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes
No