

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

C.W.P No. 26713 of 2017 (O&M)

Date of decision: 27.02.2019

Varun Gupta

.....Petitioner

Vs.

State of Punjab & Ors.

...Respondents

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE LALIT BATRA**

Present:- Mr. K.S. Gill, Advocate, for the petitioner.

Mr. Suveer Sheokand, Addl. A.G., Punjab.

Mr. B.S. Sidhu, Advocate, for the respondent - Trust.

....

MAHESH GROVER, J. (Oral)

The petitioner has approached this Court against the cancellation of permission earlier granted to him to construct the shop. The respondents have justified by saying that the permission was only granted to construct one floor whereas the petitioner has started raising construction of two floors. Besides the respondents have taken specific objection that an alternative remedy in terms of Section 72-B and 72-E of the Punjab Town Improvement Act, 1922 (for short. 'the Act') is available to the petitioner.

In view of the Reference, Section 72-B and 72-E of the Act are reproduced hereunder:-

“72-B – Power to suspend any resolution or order of trust:-

*The Deputy Commissioner may, by order in writing, suspend
the execution of any resolution or order of a trust or prohibit*

the doing of any act which is about to be done, or is being done in pursuance of or under cover of this Act, or in pursuance of any sanction or permission granted by the trust in the exercise of its powers under the Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law or contrary to the interests of the public or likely to cause waste or damage of trust funds or property, or the execution of the resolution or order, or the doing the act, is likely to lead to a breach of the peace, to encourage lawlessness or to cause injury or annoyance to the public or to any class or body of persons.

72-E Power of State Government and its officers over trusts:-

(1) The State Government and Deputy Commissioners acting under the orders of the State Government, shall be bound to require that the proceedings of trusts shall be in conformity with law and with the rules in force under any enactment for the time being applicable to Punjab generally or the areas over which the trusts have authority.

(2) The State Government may exercise all powers necessary for the performance of his duty and may among other things, by order in writing, annul or modify any proceedings which it may consider not to be in conformity with law or with such rules as aforesaid, or for the reasons, which would in its opinion justify an order by the Deputy Commissioner under Section 72-B.

(3) The Deputy Commissioner may, within his jurisdiction for the same purpose, exercise such powers as may be conferred upon him by rules made in this behalf by the State Government.”

In view of the above, we dispose of this petition with liberty to the petitioner to take recourse of his alternative remedy.

(MAHESH GROVER)
JUDGE

February 27, 2019
tripti

(LALIT BATRA)
JUDGE

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