

VIKAS CHANDER  
2019.01.31 17:23

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

**CR no.9233 of 2018**

**Date of Decision: 30.01.2019**

Humble Hospitality (Jalandhar) Pvt. Ltd.

...Petitioner

Vs.

Municipal Corporation, Jalandhar

...Respondent

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present:- Mr. Amit Jhanji, Advocate, for the petitioner.  
Mr. Harsh Aggarwal, Advocate, for the respondent.

**Amol Rattan Singh, J (Oral)**

Pursuant to the order of this Court dated 24.01.2019, Mr. Aggarwal submits that he has taken instructions that no open area on the terrace can be included in the Floor Area Ratio (FAR) but the petitioner having constructed covered area on the terrace, beyond what is allowed by the bye-laws, it cannot be allowed to operate from the terrace till such unauthorized construction is removed.

Mr. Jhanji, learned counsel appearing for the petitioner, submits that the petitioner is prepared to remove all unauthorized construction itself, if it is given due notice for the same.

That being so, even for the purpose of the interim injunction sought by the petitioner, this petition is disposed of with a direction to the respondent to issue notice to the petitioner if it considers any construction to be unauthorized, in the building from which the petitioner operates, and thereafter taking into consideration the reply of the petitioner, if any unauthorized construction is found, an opportunity would be given to the

petitioner to remove such unauthorized construction within a reasonable period of 15 days and if it is not so removed, naturally the respondent would be within its right to demolish all that is unauthorized.

The impugned order is therefore modified to the extent that the petitioner would not be allowed to operate from the building till the respondent-corporation issues notice within one week with regard to any unauthorized construction on the premises occupied by the petitioner-plaintiff, and till such time as any unauthorized construction is not removed. Thus, subject to the notice being issued within one week by the respondent-corporation, the sealing would continue to enure.

Naturally, once any unauthorized construction has been removed, either by the petitioner or by the respondent, and there is no legal impediment in allowing the petitioner to operate from the suit premises, including the terrace thereof, the petitioner would be entitled to do so, subject of course further, to it having appropriate licenses. If there is any bar on allowing the petitioner to operate as a restaurant/bar from the premises including the terrace thereof, the statutory provision containing such bar in the Punjab Municipal Corporation Act, 1976, or the Rules/Bye-laws framed thereunder, shall be specifically stated in the order prohibiting the petitioner from so operating.

30.01.2019

vcgarg

(Amol Rattan Singh)

Judge

Whether speaking/reasoned : Yes

Whether reportable : No