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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.15914 of 2020 (O&M)

Date of decision: 30.09.2020

Roshan Lal

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vikram Singh, Advocate
for the petitioner.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for issuance of a writ in the nature of Mandamus, for restraining the respondents from interfering into the peaceful possession of the petitioner from the land in question during the pendency of the appeal or the stay application dated 28.09.2020 (Annexure P5) till the decision of the same, filed by the petitioner challenging the order of demolition dated 25.09.2020 (Annexure P4) is decided by the Appellate Authority.

Counsel for the petitioner has submitted that the impugned order was passed by the Joint Commissioner, Municipal Corporation, Karnal, while relying upon the dissenting view of a Full Bench judgment and therefore, the order so passed is illegal. It is further submitted that the appeal has been filed before the Divisional Commissioner, Karnal, who is exercising the power of the Appellate Authority under the Act and also filed the application for stay and however, since no Court is being held, the authorities are contemplating to execute the order of demolition.

CASE HEARD THROUGH VIDEO CONFERENCING

Notice of motion.

Mr. Sumit Jain, Addl. A.G., Haryana, who is appearing through video conferencing, accepts notice on behalf of the respondent – State.

Counsel for the State has, however, raised an objection that the Divisional Commissioner is not the competent authority to decide the appeal.

Be whatsoever, considering the nature of the order and the relief prayed for, there is no requirement to direct the respondents to file written statement and accordingly, this writ petition is disposed of with a direction to the Appellate Authority, who has to decide the appeal/stay application, to take appropriate decision on the same, within a period of 04 months from today.

Till the decision of the aforesaid appeal/stay application, the dispossession of the petitioner from the land in question, shall remain stayed.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

30.09.2020

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No