

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

**CWP-7812-2018 (O & M)
Date of decision: 30.01.2020**

Madhu Petitioner(s)

V/s

State of Haryana and ors. ...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Munish Behl, Advocate, for the petitioner.

Mr. Ankur Mittal, Addl.A.G., Haryana,
with Mr. P.P. Chahar, DAG, Haryana.

RAJAN GUPTA, J. (Oral)

Reply on behalf of respondents No.1 to 3 has been filed in court today. Same is taken on record.

Petitioner has posed a challenged to the order dated 09.11.2017 passed by respondent No.1-Principal Secretary, Town and Country Planning Department, Government of Haryana, Chandigarh. At the outset, learned counsel points out that the order is not only vague but non-speaking in nature. All the pleas raised by the petitioner have not been dealt with therein.

We have perused the order. It is apparent that the quasi judicial authority has reproduced the contentions of the appellant and, thereafter, of the respondent. It has concluded the order by giving a very brief and non-speaking order, bereft of any reasons. Operative part thereof reads as under:-

“I have heard both the parties and perused the record available on file. Bare perusal of the documents available in file reveals that the appellant has raised un-authorized construction in an un-authorized colony without obtaining prior approval and getting the building plans approved from the Competent Authority. Submissions of the Appellant are not applicable in case of an un-authorized colony. Though the Counsel for the Appellant argued that the said colony has been considered for regularization, but he could not produce any notification of the Government vide which the said colony has been regularized. Moreover, the counsel of the Appellant himself committed that the said Shiv Colony has not been regularized till date. Hence, the appeal being devoid of merits is hereby rejected.”

A perusal of the aforesaid order shows that the pleas of the appellant have not been dealt with. There is observation in the order that a bare perusal of the documents available reveals that the appellant had raised unauthorized construction in illegal colony. However, neither such documents are reflected in the order nor taken on record. It has also been observed that appellant had failed to produce any notification of the Government to show that the said colony has been regularized. It is inexplicable why this onus was shifted on the appellant while this fact could easily have been examined by the authority on perusal of documents available with the department of the Director, Town and Country Planning.

As the order is non-speaking and suffers from non-application of mind, we proposed to set aside the same and remit the matter to the same authority for a decision afresh.

Learned counsel appearing for the petitioner has no objection to

this.

In view of the above, order dated 09.11.2017 is hereby set aside.

Matter is remitted to the same authority for a decision afresh within a period of four months after affording an opportunity of hearing to the parties.

Allowed in these terms.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

January 30, 2020
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No