

Jaiveer Singh

...Petitioner

Versus

Director General/Director, Department of Town and Country Planning,
Haryana and another

....Respondents

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. Sanjeev Bhushan, Sr. Advocate with
Mr. Manjeet Singh, Advocate for the petitioner.

B.S. Walia, J. (Oral)

1. Sole argument of learned counsel for the petitioner is that notice leading to passing of order dated 05.01.2021, was never served on the petitioner on account of wrong address having been mentioned therein despite availability of the correct address in FIR Annexure P/9 and that both the Courts below failed to take into account the aforementioned aspect of the matter while dismissing the application under Order 39 Rules 1 and 2 CPC as well as the appeal against the same.

2. Notice of motion.

3. Mr. Tapan Kumar, DAG, Haryana, accepts notice on behalf of the respondents and on instructions from Ms. Priyam Bharwaj, DTP, who is present in Court, states that without commenting upon the merits of the claim, the respondents would issue a fresh notice under Section 12(2) of the Punjab New Capital (Periphery) Control Act, 1952 (hereinafter referred to as 'the Act'), and would take action, if any, warranted under the law as per the provisions of the Act after considering the reply filed by the petitioner to the same. The same is acceptable to learned counsel for the petitioner who states that in the circumstances, the civil suit filed by the petitioner would be

withdrawn.

5. Accordingly, in the light of the position noted above, impugned order dated 05.01.2021 passed by the respondent, besides orders dated 09.03.2021 and 29.10.2020 passed by the Courts below are hereby set aside in terms of the statement made by the learned DAG, Haryana. Further in view of the statement of learned counsel for the parties, liberty is granted to the respondents to initiate fresh proceedings against the petitioner under Section 12(2) of the Act. Learned Counsel for the petitioner further states that in the eventuality of orders passed pursuant to fresh proceedings u/s 12(2) of the Act being adverse to the interest of the petitioner, the petitioner would file an appeal as provided for under Section 7(A) of the Act, instead of taking recourse to filing a Civil Suit in view of jurisdiction of the Civil Court being barred under Section 13(A) of the Act qua any orders passed under the Act.

7. Petition disposed of as above.

(B.S. Walia)
Judge

22.11.2021

rajesh

Whether speaking/ reasoned : *Yes/No*
Whether reportable : *Yes/No*