

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

207

CWP-30751-2018 (O&M)

Date of decision: 26.11.2021

RAMESH CHAND

..Petitioner

Versus

STATE OF HARYANA AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Jain, Advocate for the petitioner.

Mr. Samarth Sagar, Addl. AG, Haryana.

Mr. Mukesh K. Verma, Advocate for respondent No.3 and 4.

Mr. Arvind Kumar Sharma, Advocate for respondent No.5 to 7.

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The petitioner prays for issuance of a writ in the nature of certiorari to quash the impugned notices dated 05.06.2018, 13.06.2018 and 30.11.2018 issued under Section 208 and 235 of the Haryana Municipal Act, 1973 along with order dated 29.11.2018 passed by the Executive Officer who demolished the premises after resealing the same.

The petitioner claims to be an owner in possession of a property situated in Mohalla Tibri Kalan, now known as Mohalla Gujarwara, Rewari.

The respondents assert that the petitioner has constructed the building without getting the building plan sanctioned. The building as constructed was sealed by the municipal authorities due to an unapproved building plan. The subsequent application submitted by the petitioner for post facto sanction of the building plan stands rejected. The respondents have taken an objection

that the various orders/notices are appealable before the Deputy Commissioner, Rewari.

Learned counsel representing the petitioner contends that the Deputy Commissioner has delegated his powers to the executive officers.

After having heard learned counsel for the parties at length, this Court is of the considered opinion that the controversy can be resolved by requesting the Deputy Commissioner to personally hear and decide the matter. Learned counsel for the Municipal Council as well as the respondents do not have any objection to the aforesaid proposal.

Keeping in view the aforesaid facts, the writ petition is disposed of by directing the Deputy Commissioner, Rewari to hear and decide the matter after granting opportunity of hearing to the parties concerned within a period of three months from today. Learned counsel for the petitioner submits that some part of building has already been demolished.

Until the Deputy Commissioner, Rewari, passes a final order, status quo with regard to existence of the building shall be maintained. The Deputy Commissioner shall not dismiss the matter on the ground of that the matter before him is barred by limitation.

The parties through their counsel are directed to appear before the Deputy Commissioner on 07.12.2021.

All the pending miscellaneous application(s), if any, are also disposed of.

26.11.2021

ashok

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE