

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

118

LPA No.521 of 2022 (O&M)

Date of Decision: September 29th, 2022

Jitender Kumar Bansal

....Appellant

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Chanderhas Yadav, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J.

Challenge in this appeal is to the judgment dated 31.05.2022 passed by the learned Single Judge, whereby the writ petition preferred by the appellant challenging the notice dated 16.07.2020 issued for raising unauthorized construction in contravention of Section 250 of the Haryana Municipal Corporation Act, 1994 (hereinafter referred to as 'the Act') followed by an order of demolition passed on 13.08.2020 on the reply being found to be unsatisfactory of the appellant as also the order passed by the Appellate Authority dated 17.05.2022, whereby appeal preferred under Section 261 (2) of the Act stands dismissed being arbitrary and against the provisions of the statute, has been dismissed.

2. Learned counsel for the appellant, with reference to Section 250 of the 1994 Act, contends that the said Section would not be applicable to the case of the appellant as the nature of renovation which was being carried out by the appellant would not fall within the language as specified in Section 252 requiring sanction of the Commissioner. Referring to Section 252 of the aforesaid Act, counsel contends that none of the works as have been provided thereunder would be applicable to the renovation which is being carried out as neither any removal or re-erection is being carried out. What is being sought to be done by the appellant is laying of a cemented roof (lintel) instead of a tin shed which has been

originally constructed 16 years back. Even the electricity connection was granted to him in the year 2011 and since then, he is carrying out his work of assembly of the hospital beds. This is a non-polluting unit. All around commercial activity is being carried out and it is not merely the appellant but others also performing similar nature of works but the appellant has been singled out for taking action. Counsel on this basis contends that the judgment passed by the learned Single Judge as well as the authorities under the 1994 Act have erred in law and thus the impugned orders deserve to be set aside and this appeal allowed.

3. We have considered the submissions made by learned counsel for the appellant but do not find any merit in the present appeal.

4. Admitted facts do indicate that there was initial construction of a tin shed where the appellant had been carrying out his business i.e. commercial activity. Although the appellant has asserted that no construction or addition is being made except for laying the lintel on the roof but perusal of the order passed by the Appellate Authority would clearly show that the appellant had not only laid a cemented roof but has constructed a boundary wall and a main gate. In fact, this was his plea before the Appellate Authority. If that be so, the mandate of Section 250 read with Section 252 would apply where it is clearly mentioned that if any alteration or repair of the building involving removal of any external or partition wall or any other wall which supports the roof thereof is found, sanction of the Commissioner is essential. Even alteration or repairs to a frame building is also included for sanction to be required of the building plan. The plea, therefore, of the counsel for the appellant cannot be accepted.

5. Assertion on the part of the appellant that other similar activities of commercial nature are going on around the area and the appellant has been singled out, suffice it to say that any illegal activity, which is being carried out would not confer any right upon the appellant to claim the same benefit which is not

permissible and sanctioned in law.

6. It may also be pointed out herein that the appellant would not be entitled to equitable relief because of his conduct. Perusal of the pleadings would show that after the notice was issued to the appellant for demolition as there was no sanction by the Commissioner of the site plan which is mandatory under Section 250 and 254 of the Act, with the reply not being found to be satisfactory, the demolition order having been issued on 13.08.2020, the order having not been complied led to the sealing of the property on 08.10.2020. The seal was broken by the appellant and the Municipal Corporation had to lodge an FIR against the appellant i.e. FIR No.376 dated 07.06.2021 registered under Sections 188 and 448 IPC at Police Station Sector 10, Gurugram. The conduct of the appellant shows that he is not a law abiding citizen and has no fear of law and believes in violating the law rather than following it. With such type of conduct, the appellant does not deserve any leniency on the part of the Court.

7. In any case, the orders as passed by the learned Single Judge as also the Appellate Authority are in accordance with law and, therefore, do not call for any interference by this Court.

8. The present appeal, therefore, stands dismissed.

9. In the light of the dismissal of the appeal, CM Nos.1187 and 1188-LPA of 2022 stand disposed of as infructuous.

(AUGUSTINE GEORGE MASIH)
JUDGE

September 29th, 2022
Puneet

(ALOK JAIN)
JUDGE

Whether speaking/reasoned Yes

Whether reportable No