

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

(107)

CWP-7929-2023

Decided on : 28.08.2023

Rajkiran Gupta & others

.....Petitioner(s)

Versus

The Director, Office of Directorate of Town & Country Planning, Haryana &
others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr.Dinesh Ghai, Advocate
Mr.Nikhil Ghai, Advocate for the petitioner (s).

Mr.Deepak Bhardwaj, DAG, Haryana.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for restraining respondent No.6 from removing the old wall in front of the respective houses of the petitioners as per the addresses given in the memo of parties and stoppage of usage of 9 feet wide road and from cutting the existing 150 trees over the green-belt which are stated to be on the part of the said 9 meter wide road.

2. The petitioners' claim to be owners of House Nos.1332 to 1341, Sector 55, Ballabgarh, Faridabad which they have purchased from the previous owner. In sum and substance, the petitioners are aggrieved that respondent No.6 owns 24 acres of land on which the factory under the name and style "Mouria Udyog Ltd." is running since the year 1960. Out of the said land, 6 acres of land is being used for carving out plots in front of the outer gates of the houses of the petitioners. The site-plan though has been appended as Annexure P-31 but the same does not depict the location of the houses of the petitioners.

3. State Counsel, on having advance copy of the petition, has shown photocopy of the site-plan to show the location of the houses of the petitioners.

4. Apparently, in pursuance of Licence No.57 of 2022 dated 06.05.2022 (Annexure P-30) issued by the Director, Town & Country Planning, Haryana Chandigarh under Rule 12 of the Haryana Development & Regulation of Urban Areas Rules, 1976 which has been granted to respondent No.6, it is setting up the affordable plotted colony under the Deen Dayal Jan Awas Yojna Policy, 2016 in Sector 55, District Faridabad. The said grant of licence has not been challenged. In pursuance of the order dated 18.04.2023, the State Counsel has also informed us that the policy has been discontinued and pending applications received before 08.12.2022 are to be returned along with the scrutiny fees and licence fees, as per the decision dated 20.04.2023. Copy of the letter of the Additional Chief Secretary to Government of Haryana, Town and Country Planning Department has been placed on record.

5. Thus, apparently respondent No.6 has already got a licence prior to the suspension of the scheme. As noticed, the licence is not under challenge. The said respondent is using the said land owned by him and converting part of it into a housing colony. Every order passed by the authority is also appealable under Section 19 of the Haryana Development & Regulation of Urban Areas Act, 1975. Said section reads as under:

“19. Any person aggrieved by any order of the Director or any officer appointed by the Government, by notification in the Official Gazette, to exercise and perform all or any of the powers and functions of the Director may, within a period of thirty days of the date of communication of the orders to him, prefer an appeal to the Secretary to Government, Haryana, Town and Country Planning Department, in such form and manner as may be prescribed:

Provided that the appeal may be entertained after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.”

6. A perusal of the same would go on to show that any person aggrieved by any order of the Director, can file an appeal within 30 days to the Secretary to Government, Haryana, Town & Country Planning Department in the prescribed form and manner.

7. In such circumstances, in view of the alternate remedy available to the petitioners, we are not inclined to exercise our extraordinary writ jurisdiction under Article 226/227 of the Constitution of India, keeping in view the law laid down in **United Bank of India Vs. Satyawati Tondon & others, (2010) 8 SCC 110.**

8. Accordingly, the present writ petition stands dismissed, with liberty to the petitioners to avail their alternate remedy, in accordance with law.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

28.08.2023
Sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No