

In the High Court of Punjab and Haryana at Chandigarh

**CWP No. 7292 of 2023
Date of Decision: 12.4.2023**

Vishal Batra

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. A.G., Haryana.

Mr. Piyush Bansal, Advocate
for respondent No. 3-Municipal Council.

SURESHWAR THAKUR, J. (ORAL)

1. It is averred in the petition, that the petitioner's building was raised on the petition land but prior to the area concerned, being brought under the town planning zone. Therefore, the learned counsel for the petitioner contends, that there is no necessity, as such for the petitioner to ask for the change of land user, nor is there any empowered jurisdiction in the municipal committee concerned, to initiate steps for demolition of the purportedly unauthorized construction, as raised on the petition land.

2. However, the above averment is yet a disputed question of fact, and, the said disputed question of fact cannot be settled, nor can be clinchingly rested, through the institution of the instant petition, before this Court. Moreover, also when a statutory remedy is still available to be resorted by the petitioner, to make a challenge to the show cause notice, and, also to make a challenge against the initiation of the other processes, as embarked upon the respondents concerned, to take steps for the demolition of the building, rather purportedly unauthorizedly raised by him on the petition land. Therefore, this

Court is not inclined, at this stage, to entertain the instant writ petition, as the

same, at this stage, obviously is a completely misrecoursed remedy.

3. However, at this stage, the learned counsel for the municipal council concerned, intimates this Court, that the competent authority concerned, has ordered, that the petitioner had raised his building, on the petition land, rather without his seeking the requisite approval for his making a lawful change of land user hence from the competent authority concerned, thus the said order is amenable to be challenged before the competent authority concerned. Thus, also the instant petition is not maintainable before this Court.

4. Consequently, after leaving liberty to the petitioner to make a lawful challenge to the order, as made by the competent authority concerned, hence making a direction upon the petitioner to ensure that the petition lands are restored to their original position, and, with the further implication(s), that the petition building is required to be demolished, hence the instant petition is disposed of.

5. In case a challenge is made by the petitioner against the said direction, as made by the competent authority, then the same shall be decided, in accordance with law, but after hearing the petitioner. Moreover, it is also clarified, that till the said decision is arrived at by the competent authority concerned, thereupto the respondents concerned, may not enforce the demolition order, if any, as rendered qua the petition building.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

April 12, 2023
Gurpreet