

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-10348-2023

Date of decision : 12.05.2023

Bahadar Singh and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr.Nikhil Chopra, Advocate
for the petitioners.Ms. Rajni Gupta, Addl.A.G. Haryana
for respondents no.1 to 4.**VIKAS BAHL, J.(ORAL)**

1 This is a civil writ petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for challenging the order dated 12.01.2023 (Annexure P-9) and order dated 19.01.2023 (Annexure P-10) which is the demolition and sealing order.

2. Learned State counsel has submitted that in the present case against the order of demolition under Section 261 of the Haryana Municipal Corporation Act, 1994 (in short “the Act”), an appeal lies under sub section (2) as the sub section specifically states that any person aggrieved by an order of the Commissioner made under sub-section (1) may prefer an appeal against the order to the court of the Divisional Commissioner of the Municipal area. It is submitted that even if the action has been taken, then also in case the petitioner wishes to challenge the said order, the only remedy available to the petitioner is to file an appeal. Mere delay in

challenging the order would not entitle the petitioner to file the present writ petition and the question which has been raised in the present writ petition to the effect that as to whether the petitioner was served, in accordance with law or not, is to be determined by the appellate authority.

3. Learned counsel for the petitioner has submitted that in view of the same, the petitioner be permitted to withdraw the present writ petition with liberty to file an appeal under Section 261(2) of the Act.

4. Keeping in view the above said facts and circumstances, the present petition is dismissed as withdrawn with liberty to file a statutory appeal under Section 261(2) of the Act. In case an appeal is filed within a period of one month from today, then the appellate authority would not dismiss solely on the ground of limitation and would consider the same on merits.

(VIKAS BAHL)
JUDGE

May 12, 2023
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No