

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

CWP-14817-2023

Date of Decision: 14.07.2023

Dalbir Singh and others

..... Petitioners

Versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Aashish Chopra, Senior Advocate with
Mr. Kartik Gupta, Advocate and
Mr. Meher Nagpal, Advocate, for the petitioners.

Mr. G.S. Attariwala, Senior Advocate with
Mr. Chanchal K. Singla, Advocate,
Mr. Vansh Chawla, Advocate and
Ms. Tarranum, Advocate, for the caveator.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for issuance of direction to Municipal Corporation, Gurugram-respondent No.3 not to act upon the impugned order dated 06.07.2023 (Annexure P-28) till the time the statutory appeal of the petitioners under the Haryana Municipal Corporation Act, 1994, is heard on merits as active steps are being taken by respondent No.3 to give effect to the impugned order dated 06.07.2023 after giving only three days' notice to the petitioners in this regard with further prayer to keep the impugned order dated 06.07.2023 in abeyance during the pendency of the above said appeal.

Learned Senior counsel for the petitioners has fairly submitted that the petitioners have already availed their statutory remedy by way of filing an appeal under Section 261(2) of the Haryana Municipal Corporation Act, 1994 but the same was not being entertained. He submits that as per instructions, the appeal is fixed for hearing alongwith the stay application on 20.07.2023. He submits that though the petitioners have already filed stay application alongwith the appeal, however, despite that the respondent-

authorities are bent upon in demolishing the construction raised by the petitioners. He submits that if the demolition is carried out without hearing the appeal as well as stay application of the petitioners, which is fixed for hearing on 20.07.2023, the petitioners would suffer an irreparable loss.

Notice of motion.

Ms. Upasana Dhawan, Assistant Advocate General, Haryana, accepts notice on behalf of the respondent-State, Ms. Nikita Goel, Advocate, accepts notice on behalf of respondent No.3-Municipal Corporation, Gurugram.

After hearing learned counsel for the parties and perusing the record, this Court is of the opinion that the contention raised by learned Senior counsel for the petitioners that the appeal along with the stay application filed by the petitioners is fixed for hearing on 20.07.2023 and the same be heard by respondent No.2 on the date fixed is a fair one. Accordingly, the present petition is disposed of with a direction to respondent No.2 to take up the appeal on the date fixed i.e. 20.07.2023 and hear the arguments on the stay application and decide the same expeditiously in accordance with law. No coercive action shall be taken by the official respondents till 20.07.2023 when the appeal alongwith the stay application filed by the petitioner is fixed.

Nothing said herein shall be treated an expression on the merits of the case and respondent No.2 is free to take decision on stay application without being influenced by this order.

14.07.2023

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Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No