

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(118)

CWP-20698-2023

Decided on : 21.09.2023

Mohit Jain & another

.....Petitioner(s)

Versus

State of Haryana & others

.....Respondent(s)

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

Present: Mr.Shekhar Verma, Advocate
and Mr.Aneeshh Chopra, Advocate for the petitioner (s).

Mr.Aman Bahri, Addl.A.G., Haryana, for respondents No.1 & 2.

Mr.Piyush Bansal, Advocate, for respondent No.3.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition, filed under Article 226/227 of the Constitution of India is to the show cause notice dated 27.02.2021 (Annexure P-6) issued by respondent No.2 and order dated 18.07.2023 and 19.07.2023 (Annexures P-7 & P-8).

2. A perusal of the record would go on to show that the petitioner claims that he is the owner of plot No.39-B, Ground Floor, Akashneem Marg (ANM), DLF Phase-II, Gurugram. The petitioner was put to notice that he had made internal changes in the building and using the residential building for commercial use i.e. Heath & Fitness Studio (Alpha Fit) in violation of Section 3B of the Haryana Development & Regulation of Urban Areas Act, 1975 (for short, the 'Act'). Resultantly, he was asked to stop the commercial activity and submit his reply and appear before the authority-respondent No.2 on 08.03.2021.

3. The petitioner apparently filed a Civil Suit for permanent injunction on 09.03.2021 (Annexure P-13) restraining the defendants from resuming or sealing the said house on the ground that there was no commercial activity in the said house and the petitioner was only using the house for residential purpose. The Civil Court at Gurugram passed an order of status quo on 12.03.2021 (Annexure P-14) after the respondents had put in appearance, who filed the response saying that there were unauthorized commercial activities which were in terms of the notice and thus, opposed the Civil Suit.

4. During the pendency of the Civil Suit which was dismissed as withdrawn on 29.08.2023 (Annexure P-16), fresh order were passed by the District Town Planner, Enforcement, Gurugram dated 18.07.2023 (Annexure P-7) that there was neither appearance nor any reply had been received and there was contravention of the Act and accordingly, legal action was to be taken to give effect to the order. Seven days time was given to remove the contravention in accordance with law under Section 10(3) of the Act. On the next date, on 19.07.2023 (Annexure P-8), it was ordered that complaint for registration of the FIR on the owners of the plots be sent to the concerned Police Department after following the due course of law.

5. A perusal of the said order would go on to show that apart from the petitioners, there are 9 others against whom the said recommendation was made. Counsel for the petitioners has taken us to the photographs appended of the property in question as Annexure P-9 including the interiors to show that the house in question was a residential house. He had submitted that he would file a reply before the authorities and he be given liberty to specify the usage of the house and thereafter, a fresh order be passed.

6. Mr.Bahri submits that he has necessary instructions from Mr.Manish Yadav, DTP (Enforcement), Gurugram that the orders dated 18.07.2023 and 19.07.2023 shall not be enforced till fresh decision is taken.

7. Resultantly, we dispose of the writ petition with direction to the petitioners to submit a detailed reply within 10 days from today. Thereafter, it will be open to the respondents to take action in accordance with law. In case there is no existing violation, they shall proceed to drop the proceedings. In case the violation still subsists, it will be open to the respondents to pass a fresh order, in accordance with law.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

21.09.2023
Sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No