

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

CWP-21272-2023

Date of decision : 22.09.2023

M/s Emaar India Limited

.....Petitioner

versus

State of Haryana through Secretary Urban Local Bodies and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Kunal Dawar, Advocate
Mr. Nikhil Chopra, Advocate and
Ms. Shruti Mandhotra, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for quashing the impugned order dated 27.05.2023 (Annexure P-1) passed by respondent No.3-Commissioner, Municipal Corporation Manesar, Demolition Order dated 13.03.2023 (Annexure P-3) passed by respondent No.4 i.e. Joint Commissioner-II, Municipal Corporation Manesar, as well as the impugned show cause notice dated 28.02.2023 (Annexure P-2) issued by respondent No.4 i.e. Joint Commissioner-II, Municipal Corporation Manesar under Section 408-A of the Haryana Municipal Corporation Act, 1994 without application of mind and without affording a reasonable opportunity to the petitioner herein and depriving them of their right to a fair hearing and sufficient time to respond to the allegations. As the impugned order dated 27.05.2023 (Annexure P-1) issued in complete defiance of the Act and prescribed rules and regulations of the Punjab and Haryana High Court and para 4.49 of Haryana Land Record Manual and

further contravene the applicable legal framework which governs the procedure for issuing such notice. Further prayer has been made for issuance of direction for prohibiting respondents No.1 to 3 from demolishing the boundary wall on Khasra No.914/2 and 921/1 of the Residential Group Housing Project, Palm Hills Society, Shikhopur which has been developed pursuant to License No.56 of 2009 and License No.62 of 2013 and after receiving the occupation certificates the society is fully inhabited at the present. Further prayer has been made directing respondents No.2 to 7 to carry out fresh demarcation exercise in the presence of the petitioner after verifying/establishing the pucca points in accordance with Chapter I Part M(i), Volume I of the Rules and Orders of the Punjab and Haryana High Court and Haryana Land Record Manual.

Learned counsel for the petitioner has submitted that the demolition order passed can be implemented only after the demarcation of property by fixing *pucca* points. He has drawn the attention of this Court to the representation dated 27.07.2023 (Annexure P-11). However, it is evident that demarcation till date has not been conducted and thus, the demolition as directed cannot be carried out. He submits that though the petitioner approached the respondent time and again but the grievance of the petitioner has not been taken into consideration.

Notice of motion.

On asking of Court, Ms. Upasana Dhawan, AAG, Haryana accepts notice on behalf of the State.

Heard. After hearing counsel for the parties and perusing the record, the present petition is disposed of with liberty to the petitioner to file his appropriate representation to respondent No.5 who is the

competent authority for the demarcation as required before the execution of demolition order. If the petitioner files any such representation within ten days from today then the respondent No.5 would decide the same within four weeks thereafter. As is evident from the order passed, the execution of the demolition is subject to the demarcation, thus, the *status quo* would be maintained till the decision of the representation if any filed by the petitioner within the stipulated time stated above before respondent No.5.

22.09.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No