

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

**CWP No.29366 of 2023 (O&M)
Date of Decision: 22.12.2023**

Raj Kumar Oberai and others

.....Petitioners

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR.JUSTICE ARUN PALLI, JUDGE
HON'BLE MR.JUSTICE VIKRAM AGGARWAL, JUDGE**

Present : Mr. Amit Jhanji, Sr. Advocate with
Ms. Amrita Nagpal, Advocate and
Mr. Shanshank Shekhar Sharma, Advocate for the petitioners.

Mr. Deepak Sabherwal, Advocate for HSVP.

ARUN PALLI, J. (Oral):

Concededly the petitioners are the owners of commercial shops located within plot No.1 Multiplex Site, Sector 11, Panipat, which they have purchased from respondent No.5 (M/s DAP Estate Pvt. Ltd.). It is not disputed that they are in actual physical possession of the said shops and running their respective businesses. What is sought to be assailed in this petition is the order dated 29.11.2023, passed by the Estate Officer (respondent No.3), vide which the multiplex site allotted to respondent No.5, has since been resumed, owing to enmass building violations/deviations that surfaced during inspection by the authorities. And also the notice dated 18.12.2023 (P11), issued under Section 18(1)(b) of The Haryana Shehri Vikas Pradhikarn Act, 1977 (for short 'the Act') whereby respondent No.5 has been directed to vacate the site within 7 days, failing which, possession would be taken under the HSVP Rules by 28.12.2023.

Learned Senior counsel for the petitioners submits that *ex facie* the order of resumption has been passed without any notice or opportunity of hearing to the petitioners. Likewise, even the notice dated 18.12.2023 had been issued to respondent No.5 only. Thus, the petitioners were not associated, at any stage, with the resumption proceedings though, in essence, the impugned order severely impacts their right, title and interest.

Served with the advance copy of the petition, Mr. Deepak Sabherwal, Advocate, is present in Court on behalf of respondents-HSVP. At the outset, he submits that since the order of resumption dated 29.11.2023, was passed under Section 17(4) of the Act the same is appealable under Section 17(5) by any person aggrieved against any such order. Similarly, even against a show cause notice, issued under Section 18(1)(b) of the Act, a remedy of appeal is envisaged under Section 20 of the Act. Therefore, he submits that in the wake of the statutory remedy of appeal under the Act, it would rather be expedient if the petitioners file appeal against the impugned order and the show cause notice. It is urged that the matter being time sensitive, if the petitioners file the appeal(s), as indicated above, within 5 days (by 27.12.2023) along with an application for interim relief, the competent authority shall take cognizance thereof and pass appropriate orders in accordance with law.

To this, learned Senior counsel for the petitioners, upon instructions, submits that let this petition be disposed of in terms of the statement made by learned counsel for respondents-HSVP and to enable the petitioners to file appeal against the order of resumption as also the show cause notice.

In the wake of the position as sketched out above and particularly,

in terms of statement made by learned counsel for the parties, the petition is accordingly disposed of.

This Court is sanguine that in the event the petitioners assail the impugned order as also the show cause notice by filing appeal(s) under the relevant provisions of the Act, the competent authority shall examine the matter in the right earnest and pass the necessary orders in accordance with law.

Needless to assert that this order shall not constitute any expression of opinion on the merits of the case of either party, for, as indicated above, the competent authority shall examine the concerns/grievances of the petitioner, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

22.12.2023
Manoj Bhutani

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