



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

**CWP No.22283 of 2023 (O&M)
Date of Decision :27.05.2024**

Snehlata Jaswal

.....Petitioner

Versus

Housing Board Haryana and others

..... Respondents

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

Present : Ms. Amrita Nagpal, Advocate for the petitioner.

Mr. Vaneet Soni, Advocate with
Mr. Pankaj Kundar, Advocate for
Mr. Deepak Sabherwal, Advocate for HSVP.

Mr. Gaurav Chopra, Sr. Advocate with
Ms. Seerat Saldi, Advocate for respondents No.5 and 6.

ARUN PALLI, J. (Oral):

A mandamus is prayed for commanding respondents No.1 to 4 to take a suitable action/measures against respondents No.5 and 6, as per notices dated 19.12.2022 and 01.02.2023 (P-15 and P-16), for removal of unauthorized construction as also the encroachment caused by the private respondents. And, also to restrain respondents No.5 and 6 from raising any further construction at House No.25, Housing Board Colony, Sector 18, Panchkula.

A co-ordinate Bench, on 05.10.2023, while issuing notice of motion, had passed the following order:-

“It is the grouse of the petitioner who is resident of House No.24, Sector 18, Panchkula that her immediate neighbours-respondents No.5 & 6 are raising construction on House No.25 and have extended the building line beyond



the zoning. She has referred to the photographs appended which apparently show that the said averments, prima facie, are correct. It is further pointed out that on an earlier occasion, petitioner had approached this Court seeking decision on the representation regarding the illegal construction and orders were passed on 30.09.2022 (Annexure P-8) to decide the representation. In spite of the same, no action has been taken apart from constituting a Committee on 29.11.2022 whereby it was also noticed that there was no record of building plan and property of the Housing Board was with HSVP and it was not feasible for the HSVP to take action as it was the responsibility of the agency/department which had approved the building plans to check any violence (sic. Violation) regarding construction.

It is submitted that in pursuance of the order dated 30.09.2022 (Annexure P-8), notice dated 19.12.2022 and 01.02.2023 (Annexures P-15 & P-16) were served upon the private respondents by the respondent-Board that they had re-used the rear boundary wall upto 30 feet height and also partly covered the rear zone area. The front courtyard portion had also been constructed which is in violation of the Haryana Building Code, 2017. The same was based on the report of the officials who had visited the house on 12.12.2022.

Contempt petition was thereafter disposed of on 27.07.2023 (Annexure P-19) wherein the amount of damage as calculated by the Surveyor was to the tune of Rs.2,51,526/- which was directed to be deposited with the Estate Manager of the respondent-Board so that the petitioner could withdraw the same.

Notice of motion.

Mr.Sabherwal accepts notice on behalf of



respondents no.1 to 4 and informs the Court that the houses allotted to the Housing Board are raised without any building plans being sanctioned and the building line being defined and the building-plans were not approved since the sector was transferred to the Housing Board.

It is not disputed that the Haryana Building Code, 2017 would be applicable to all the properties on which construction is being raised. Therefore, we are of the considered opinion that there has been gross violation of the said Code while raising the construction beyond the zoning line by respondents No.5 & 6.

List on 19.12.2023.

Accordingly, keeping in view the above, we direct that construction on House No.25, Sector 18, Panchkula shall be stopped with immediate effect. The official respondents shall intimate the said respondents of this order.

Copy of this order be supplied to Mr.Sabherwal under the signatures of Special Secretary of this Court.”

Learned Senior counsel for respondents No.5 and 6 submits that the private respondents have invested their life time earnings and savings to build a residential house for themselves. However, owing to an interim order (ibid), passed by this Court, not only the work at site has come to a standstill but with each passing day interest of the respondents is severely impaired. He submits that two show cause notices (ibid), respondents No.5 and 6 have been served, by the Haryana Shehri Vikas Pradhikaran (HSVP) as also the Haryana Housing Board (respondent No.1), indicate that the following building violations:



- (1) **Common Wall towards House No.24, Sector-18, Panchkula, has been raised about 30 feet from the ground level from end to end.**
- (2) **Rear side zoned area partly covered.**
- (3) **Projection in front courtyard beyond zoning.**

Accordingly, it is submitted that in order to bring the building in conformity with the provisions of the Haryana Building Code 2017, and to address the issues regarding violations of the zoning line in the front and rear portion of the house, private respondents No.5 and 6 would remove all non-compoundable building violations/deviations.

That being so, learned counsel for the parties submit that there is every possibility of an amicable resolution of the dispute at hand. Accordingly, it is urged that Haryana Housing Board be directed to constitute a Committee that would visit the site, and besides the violations/deviations that have already been identified, would ascertain if there exists any other non-compoundable deviations/violations. Accordingly, any unauthorized construction, encroachment and/or violations that is identified by the Committee, respondent No.5 and 6 undertake to clear/remove the same within the time indicated by the Committee. However, to facilitate the process of removal/demolition of unauthorized construction/encroachment, if some pillars etc. or something needs to be temporarily erected, respondents No.5 and 6, with the due approval/sanction of the Committee, would carry out the said exercise. However, as this Court, vide interim order dated 05.10.2023 (ibid) had stayed the further construction at site the said order would continue to operate till all building violations/deviations are removed.



In the wake of the position sketched out above and in terms of the statements made by learned counsel for the respective parties, we request the Housing Board Haryana to constitute a Committee of Experts to execute the arrangement and understanding that has been arrived at between the parties. Further, post removal of all the violations/deviations/encroachments the Committee would submit its spot inspection report to the Board. Whereupon, the Board shall pass necessary orders, after affording opportunity of hearing to the parties, in relation to the proceedings, that were initiated, vide show cause notices, referred to above.

In conspectus of the above, the petition is accordingly disposed of.

However, it is clarified that if any of the parties is aggrieved by any order/direction/decision of the respondents-authority, in any manner, they would be at liberty to avail such other remedies as shall be admissible in law as also to file a fresh petition for redressal of their grievances.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

27.05.2024
Manoj Bhutani

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