



CWP-28916-2024

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

CWP-28916-2024**Date of decision: 24.10.2024**

Dhruv Satia

....Petitioner

Versus

Deputy Commissioner, Chandigarh and others

....Respondents

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

Present: Mr. Baltej Singh Sidhu, Senior Advocate, with
Mr. Himmat Singh Sidhu, Advocate,
Mr. Chandan Singh, Advocate,
Mr. Jashan Deep Sidhu, Advocate,
Mr. Divij Dutt, Advocate,
for the petitioner.

ARUN PALLI, J. (Oral)

A Certiorari is prayed for, to quash the order dated 09.07.2024 (P-3), passed by the Sub Divisional Magistrate (East), in exercise of powers of the Deputy Commissioner, under Section 12(2) of the Punjab New Capital (Periphery) Control Act, 1952, whereby the petitioner was directed to demolish the unauthorized construction and restore the land to its original state, within six weeks.

Learned Senior counsel for the petitioner submits that apparently, the impugned order is palpably erroneous and unsustainable, for it was passed in violation of the principles of natural justice. He asserts that per the observations recorded in the impugned order, despite having been afforded repeated opportunities, the petitioner failed to submit response/explanation to justify existence of the alleged unauthorized construction. Whereas, in fact, upon being served with a notice, an authorized representative of the petitioner (Mr. Sukhraj Singh) had caused appearance before the Presiding Officer on 22.06.2023, and the matter was posted for 13.07.2023. Even on the adjourned date, the



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said representative was present, but, as the Presiding Officer was busy in a meeting and could not hold the court, he was informed by the Reader that the next date would be duly conveyed telephonically. However, no such date was ever notified either to the petitioner or his representative. He asserts that neither any notice was served upon the petitioner nor he was informed telephonically as regards the dates when the matter was allegedly taken up on 31.08.2023, 21.09.2023 and 07.12.2023. Even otherwise, the construction that has been carried out by the petitioner in khasra number 48//10-11 and 47//15-16 cannot be termed illegal and violative of any provision. It is urged that, in fact, the petitioner has developed a green poly house in the agricultural land and is doing Hydroponic farming. In this regard, it is submitted that vide a communication dated 01.10.2020 (P-1), issued by the Sub Divisional Magistrate (East), the petitioner was duly granted permissions/approvals for installation of a tubewell with one room, under Section 6(4) of the 1952 Act.

Served with the advance copy to the petition, Mr. Maheshinder Singh Sidhu, Advocate, and Mr. Karan Vir Singh, Advocate, for the respondent-U.T., Chandigarh, is present in Court. He submits that per the impugned order, the petitioner was afforded adequate opportunity to present his claim, but he failed to. Whereas, concededly, the petitioner was not present before the Presiding Officer when the matter was heard and accordingly, he was deprived of the opportunity to submit his response/explanation to crystallize the actual position. Further, even the impugned demolition order was passed in his absence. Thus, he asserts that it shall be expedient and in the interest of the parties to the *lis*, if the petition is disposed of, at this stage, to enable the competent authority to pass a fresh order, after affording due opportunity of hearing to the petitioner, for which, a formal communication shall be issued to him, well in advance. And that being so, he submits that the impugned order be deemed to have been withdrawn/recalled.

Learned Senior counsel for the petitioner is agreeable to the course suggested by learned counsel for the respondents and submits that let this petition be disposed of, in terms of the statement made by him.



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In the wake of the position sketched out above and in terms of the statements made by learned counsel for the parties, the petition is accordingly disposed of.

This Court is sanguine that the authorities shall look into the matter in the right earnest. And the appropriate orders, assigning reasons in support thereof, shall be passed, at the earliest.

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

24.10.2024
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No