



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

**CWP-32161-2024 (O&M)
Date of Decision: 10.12.2024**

PANKAJ BHATIA AND ANOTHER

....Petitioners

Versus

STATE OF HARYANA AND OTHERS

....Respondents

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

Present: Mr. Mohit Garg, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Ms. Kushaldeep Kaur, Advocate
for respondents No.1 to 3.

Mr. Rajeev Anand, Advocate
for respondents No.4 and 5.

VIKRAM AGGARWAL, J.

1. The petitioners have prayed for the following substantive relief:-

“Civil writ petition under articles 226/227 of the Constitution of India for the issuance of the writ in the nature of mandamus directing the respondent Departmental authorities to remove the illegal construction of the escalator made in front of the shops of the petitioners in contravention of the provisions of Haryana Development and Regulation of Urban Area Act, 1975 as well as in the violation of Building Code 2017.

Further for issuance of the directions to the respondent Departmental authorities to act in consonance with the restoration order dated 02.11.2023 (Annexure P-3) passed under section 10 (2) of Haryana Development and Regulation of Urban Area Act, 1975 as well as the order dated 04/06/2024 (Annexure P-8) passed on the application for grant of occupation certificate directing the respondent builder to take the consent of all the existing allottees qua the construction of escalator within 30 days or otherwise the request for grant of occupation certificate in respect of the above said illegally constructed escalator will be withdrawn and the same has to be demolished, irrespective of the above said orders the respondent



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departmental authorities are not complying with the above said orders even after passing of considerable time.”

2. Learned counsel for the petitioner has referred to the order dated 01.03.2024 (Annexure P-4) passed by this Court in **CWP No.4887 of 2024** vide which a statement had been given by learned Additional Advocate General, Haryana that pursuant to show cause notice dated 12.10.2023 (Annexure P-2 herein and Annexure P-9 therein) issued under Section 10(2) of the Haryana Development and Regulations of Urban Areas Act, 1975 (for short ‘1975 Act’), the Escalator installed by the private respondents in front of shops No.G-04 and G-05, Ground Floor, Block-B, Trehan Iris Broadway Mall, Sector 85-86, Gurugram had been sealed and a formal order for restoration of the site in question had also been passed. It had further been stated that the private respondents had moved an application for compounding the violations and the matter was under active consideration of the competent authority. It has been submitted that despite the aforesaid statement having been given, no further action has been taken by the respondents and the Escalator has not yet been removed. Learned counsel submits that restoration order dated 02.11.2023 (Annexure P-3) has not been implemented by the respondents for reasons best known to them. He submits that on account of the same, the interest of the petitioners continues to suffer. Learned counsel also submits that despite the order dated 04.06.2024 (Annexure P-8) having been passed that consent of all owners should be obtained, the official respondents have not obtained the consent of the petitioners and have, instead, obtained the consent of the tenants of the petitioners namely HDFC Bank.

3. Per contra, Mr. Ankur Mittal, learned Additional Advocate General, Haryana, who has caused appearance on advance copy having been served, submits that the Escalator in question is still lying sealed. He further submits that



has been moved by the private respondents and the authority concerned is in seisin of the same and that the matter is at an advance stage. He submits that a final decision on the said request will be taken within a period of 04 weeks from today and an order shall be passed. He also submits that till such an order is passed, the Escalator shall remain sealed. He further submits that even otherwise, all affected parties have given their no-objection/consent for installation of the Escalator which includes the occupants of the shops in question namely HDFC Bank.

4. We have considered the submissions made by learned counsel for the parties.

5. Previously also, the petitioners had approached this Court by way of *CWP No.4887 of 2024*, which was disposed of on 01.03.2024;

“At the outset, learned Additional Advocate General, Haryana submits that pursuant to show cause notice dated October 12, 2023 (P-9), issued under Section 10(2) of Haryana Development and Regulations of Urban Areas Act, 1975, the respondent-authorities had sealed the Escalator that was installed by the private respondents in front of shop No.04-055, Ground Floor, Block-B, Trehan Iris Broadway Mall, Sector 85-86, Gurugram. Even, a formal order for restoration of the site in question has also been passed. However, for respondent No.5 has moved the Director General, Town & Country Planning Department, Haryana for compounding the violations, the matter is under active consideration of the competent authority. And, thus, in the given circumstances, nothing substantive survives in this petition.

That being so, learned counsel for the petitioners submits that let this petition be disposed of in terms of the statement made by learned Additional Advocate General, Haryana. However, he submits that petitioners be granted liberty to file a fresh petition, if the occasion so arises.

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



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6. It is the conceded case of the parties that the Escalator is still lying sealed. Even the request for compounding moved by the private respondents is pending before the authorities and the matter is stated to be at an advance stage. Even when the previous writ petition was disposed of, the stage was practically the same. Now, learned Additional Advocate General, Haryana has given a statement that a final decision shall be taken within a period of 04 weeks from today and till then, the Escalator shall be kept sealed.

7. In view thereof, in the considered opinion of this Court, no further directions are required to be passed by this Court. The writ petition is accordingly ***disposed of*** in terms of the statement given by learned Additional Advocate General, Haryana.

8. This Court is sanguine that the authority concerned will consider the matter in the right earnest and shall deal with it accordingly and pass the requisite orders in accordance with law keeping in view the interests of all parties.

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

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

10.12.2024

Prince Chawla

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.