



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

116

CWP-26587-2025.

Date of Decision: 08.09.2025.

Baba Peer Bahare Shah Aulia Chisti Alias Hazrat Ahmed Ali Shah

....Petitioner.

VERSUS

State of Haryana and others

....Respondents.

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Abdul Aziz, Advocate for the petitioner.

ANUPINDER SINGH GREWAL, J. (Oral)

Learned counsel for the petitioner submits that by the impugned order dated 15.05.2025 (Annexure P-20), rejection of the appeal of the petitioner as not maintainable, is erroneous, as the order of eviction was passed by the Estate Officer, in pursuance to the directions of this Court. He submits that the order of resumption had been passed by the Estate Officer under Section 18 of the Haryana Shehri Vikas Pradhikaran Act, 1977 (hereinafter to be referred as 'HSVP Act') and the appeal would be maintainable before the appellate authority under Section 20 of the HSVP Act.

2. Issue notice to the respondents.

3. Mr. Deepak Bhardwaj, Advocate has put in appearance and accepts notice on behalf of respondent-HSVP.

4. The petitioner has challenged the notice issued to it by respondent No.3 to show cause as to why it should not be evicted from the unauthorized occupation. This Court, vide order dated 13.01.2025 had disposed of the writ petition bearing CWP No.638 of 2025 and directed the Estate Officer, Haryana Shehri Vikas Pradhikaran, Ambala, to consider the representation of the petitioner and decide the same in accordance with law. The Estate Officer passed an order of eviction on 12.02.2025 and the petitioner was directed to vacate the premises within two days. The petitioner had preferred an appeal thereagainst but the same has been dismissed on the ground that it is not maintainable. Power of eviction is set out in Section 18 of HSVP Act, which provides that the Collector or any officer authorized by him, on fulfilling the conditions laid therein, may direct the eviction of any unauthorized occupation. Although this Court had directed the Estate Officer to consider the representation and pass an order but as it is an order directing the petitioner to vacate the premises, it would be construed to be an order passed under Section 18 of the HSVP Act. An order passed under Section 18 of the HSVP Act is appealable under Section 20 of the said Act, which provides that any person aggrieved by an order of the Collector under Section 18 or Section 19, may within a period of 30 days prefer an appeal before the appellate authority. The relevant extracts of Section 18 and Section 20 of the HSVP Act are reproduced hereunder for ready reference:-

“[18. Power to evict persons from premises/land of Authority or building constructed thereon.- (1) If the Collector or any officer authorized by him is satisfied-

(a) that any person authorized to occupy any premises of the Authority has-

(i) not paid rent lawfully due from him in respect of such premises for a period of more than two months; or

(ii) sublet, without the permission of the Estate Officer, the whole or any part of such premises; or

(iii) otherwise acted in contravention of any of the terms expressed or implied, under which he is authorized to occupy such premises; or

(b) that any person is in unauthorized occupation of any land of the Authority or building constructed thereon,

the Collector or any officer authorized by him may, notwithstanding contained in any law, for the time being in force, by notice served by post and if a person avoids service, or is not available for service of notice, or refuses to accept notice, then by affixing a copy of it on the outer door or some other conspicuous part of such premises/land or building or in such other manner as may be prescribed, call upon any person, who has committed a breach of the provisions of this Act or the rules framed thereunder, to vacate the said premises/land or building constructed thereon or demolish unauthorized construction and to appear and show cause why he should not be ordered to restore to its original state or to bring it in conformity with the provisions of this Act or the rules framed thereunder, as the case may be, and if such person fails to show cause to the satisfaction of the Collector or any officer authorized by him within a period of seven days, the Collector or any officer authorized by him shall pass an order requiring him to vacate such premises/land or building constructed thereon or demolish unauthorized construction and restore to its original state or to bring it in conformity with the provisions of this Act or the rules framed thereunder, as the case maybe, within a further period of seven days.

20. Appeal.- (1) Any person aggrieved by an order of the Collector under section 18 or section 19 may, within a period of thirty days from the date of the service of notice under section 18 or section 19, as the case may be, prefer an appeal to the Director, or such other authority, as the State Government may appoint in this behalf:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred under sub-section (1), the appellate authority may stay the enforcement of the order of the Collector for such period and on such conditions, as it deems fit.

(3) Every appeal under this section shall be disposed of by the appellate authority as expeditiously as possible.”

5. Admittedly, the petitioner had preferred an appeal against the order passed by the Estate Officer, but the same has been rejected as not maintainable by the impugned order dated 15.05.2025. The petitioner cannot be left remediless especially when the provision for an appeal has been provided under the statute. The appeal preferred by the petitioner ought to have been treated under Section 20 of the HSVP Act.

6. In the afore-noted facts and circumstances, we set aside the order dated 15.05.2025 (Annexure P-20) and direct that the appeal preferred by the petitioner would be treated as an appeal under Section 18 of the HSVP Act and be decided by the appellate authority in accordance with law within a period of three months from now, after affording an opportunity of hearing to the petitioner.

7. The petition stands disposed of accordingly. Pending application(s), if any, also stand disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

08.09.2025
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No