

2025 LiveLaw (SC) 1061

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
J.K. MAHESHWARI; J., VIJAY BISHNOI; J.**

October, 28, 2025

**CIVIL APPEAL NOS. 13045-13046 of 2025 (Arising out of SLP (C) Nos. 13708-13709 of 2025)
GAURAV KOHLI & ORS. versus STATE OF HARYANA & ORS.**

Haryana Development and Regulation of Urban Areas Act, 1975 - Section 15 - Principles of Natural Justice - Opportunity of Hearing - The Supreme Court set aside an order of the High Court in a Public Interest Litigation (PIL) that directed the closure of civil suits and action against unauthorized construction and commercial use of residential property in Gurugram, on the ground that the directions were issued without joining the affected parties (appellants) and affording them an opportunity of hearing - Observed that while unauthorized construction or commercial use of residential property cannot be protected, the determination of such fact must be made by the authorities affording due opportunity to the owners and occupiers - Held that opportunity of hearing is a *sine qua non* for fair administration of justice and a Court's observations should not adjudicate the rights of any unheard party - Set aside order of High Court. [Paras 9 - 12]

[Arising out of impugned final judgment and order dated 13-02-2025 in CWP No. 1528/2021 13-02-2025 in CWP No. 2106/2021 passed by the High Court of Punjab & Haryana at Chandigarh]

WITH CIVIL APPEAL NO. 13047 OF 2025 (Arising out of SLP (C) No. 13771 of 2025) CIVIL APPEAL NO. 13048 OF 2025 (Arising out of SLP (C) No. 13829 of 2025) CIVIL APPEAL NO. 13049-13050 OF 2025 (Arising out of SLP (C) No. 13830-13831 of 2025) CIVIL APPEAL NO. 13051 OF 2025 (Arising out of SLP (C) No. 12170 of 2025) CIVIL APPEAL NO. 13052 OF 2025 (Arising out of SLP (C) No. 13791 of 2025) CIVIL APPEAL NO. 13053 OF 2025 (Arising out of SLP (C) No. 13826 of 2025) AND CIVIL APPEAL NO. 13054 OF 2025 (Arising out of SLP (C) No. 13800 of 2025)

For Petitioner(s) :Mrs. Kaadambari Singh, Sr. Adv. Ms. Kopal Yadav, Adv. Mr. Rameshwar Prasad Goyal, AOR Mr. Raju Ramachandran, Sr. Adv. Mr. Aslam Ahmed Jamal, AOR Mr. T.r.yadav, Adv. Ms. Kheyali Singh, Adv. Mr. Manish Yadav, Adv. Mr. Rohit Jain, Adv. Ms. Smriti Shukla, Adv. Ms. Shruti Narayan, Adv. Mr. Satyapal Singh, Adv. Mr. R Subramaniam, Adv. Mr. Arun Kumar Arunachal, Adv. Mr. Mohd Afeef, Adv. Mr. Kafeel Ahmad, Adv. Mr. Atmaram N.s. Nadkarni, Sr. Adv. Mr. Shikhil Suri, Sr. Adv. Mr. Vikas Tomar, Adv. Mr. Aditya Singh, AOR Mr. Karan Lohia, Adv. Mr. Shubham Singh, Adv. Mr. Kamal Kishor, Adv. Mr. Neelmani Pant, AOR Mr. Chritarth Palli, AOR Mr. Durgesh Ramchandra Gupta, AOR Mr. Kaushal Yadav, AOR Mr. Arvind Verma, Sr. Adv. Ms. Smridhi Sharma, Adv. Ms. Mahima Chauhan, Adv. Ms. Sneha Masani, Adv. Mr. Kuldeep Singh Kuchaliya, Adv. Ms. Aashna Gill, AOR

For Respondent(s) :Mr. Tushar Mehta, Solicitor General Mr. Lokesh Sinhal, Sr. A.A.G. Ms. Karishma Malani, A.A.G. Mr. Akshay Amritanshu, AOR Mr. Madhav Sinhal, Adv. Mr. Nikunj Gupta, Adv. Ms. Drishti Saraf, Adv. Ms. Drishti Rawal, Adv. Ms. Aakanksha, Adv. Ms. Ishika Gupta, Adv. Mr. Sarthak Arya, Adv. Mr. Sarthak Srivastava, Adv. Mr. Mayur Goyal, Adv. Ms. Seema Sindhu, Adv. Ms. Kirti, Adv. Mr. Varun Chugh, Adv. Ms. Shagun Shahi Chugh, Adv. Ms. Meera Chugh, Adv. Mr. Katahiamang Panmei, Adv. Mr. Atul Dong, Adv. Mr. Kabir Singh, Adv. Mr. Prashant Rawat, AOR Mr. Pinaki Misra, Sr. Adv. Ms. Ruby Singh Ahuja, Adv. Mr. Pravin Bahadur, Adv. Mr. Dhruv Dewan, Adv. Mr. Avishkar Singhvi, Adv. Ms. Akanksha Thapa, Adv. Ms. Uzma Sheikh, Adv. Mr. Jappanpreet Hora, Adv. Ms. Kanika Gomber, Adv. Mr. Saurabh Kumar, Adv. M/S. Karanjawala & Co., AOR Mr. Rakesh Khanna, Adv. Mr. Rohan Khanna, Adv. Ms. Tatini Basu, AOR Mr. Arvind Singh Yadav, Adv. Mr. Sanchar Anand, Adv. Mr. Apoorva Singhal, AOR Mr. Rajat Rathee, Adv. Mr. Aman Kumar Thakur, Adv. Mr. Abhishek Bhardwaj, Adv.

ORDER

1. Leave granted.
2. In this batch of petitions, the common order dated 13.02.2025 passed in Civil Writ Petition No(s). 1528 and 2106 of 2021 has been assailed by the appellants, *inter alia*,

contending that the directions as issued by the High Court was without joining them as party and affording opportunity of hearing, which adversely affects the several civil suits filed by them. It is said that the suits of some of the petitioners have already been decreed which have not been brought to the notice and also not appealed against. Therefore, such directions may seriously prejudice the right of audience though they are owners and in occupation of the premises.

3. It is also a fact that 172 civil suits have been filed by some of the appellants which are pending while some of the appellants have not approached the civil court, however, it is contended that if the direction issued in the PIL is complied with, it may also prejudice the adjudication of the pending suits before the Civil Courts.

4. Upon perusal of the order impugned, it appears that the State Government had filed detailed synopsis before the High Court indicating several violations in construction by various inhabitants of the area in Gurugram. It is indicated that in residential areas, commercial use is being done and that construction was made beyond the permissible FAR / additional floors and commercial use in residential areas. The nature of violations is said to be non-compoundable in nature. Specifying the details in the table in the order impugned. It is further said that such violations cannot be permitted.

5. The High Court has taken note of Section 15 of the Haryana Development and Regulation of Urban Areas Act, 1975 (hereinafter referred to as '**HDRUA Act**') and reiterated that the civil suits be forthwith closed after opportunity of hearing to all concerned, in particular because there is a bar of jurisdiction. In paragraph 18, the directions have been issued by way of mandamus to the respondents directing to take actions against the persons specified in the tabulated categories of the order impugned within two months.

6. It is contended by the appellants that they were neither the party nor were afforded the opportunity of hearing and without taking note of the individual cases order impugned has been passed. It is urged that the observations made in paragraphs 14 and 15 of the impugned order are of binding nature, and also the expression of opinion on the jurisdiction of civil court. Therefore, they have an apprehension that even before the civil court, the opportunity of hearing may not be possible.

7. Per contra, learned counsel appearing for the writ petitioners before the High Court, submits that the direction sought in a PIL was to take proper action on Action Taken Report dated 19.11.2018 and 22.02.2019 and Memorandum dated 25.08.2018 issued by Respondent No. 4, District Town Planner with other reliefs have also been sought. He submits that the appellants are either encroachers or have raised the construction contrary to the permissible limits or without permission or using residential premises as commercial. However, the unauthorized construction should not be protected, therefore, the direction as issued by the High Court is justified.

8. Learned Additional Advocate General representing the State submits that it is a case in which the violations of the prevalent norms, rules, and guidelines have been reported to the High Court as reflected in the impugned order in a tabular form. While notifying the violation of the norms, notice was issued to the individual persons who are owners and occupying the premises. Instead of responding to those notices, they have approached the civil court which do not have jurisdiction to entertain the suit under Section 15 of the HDRUA Act. Since they have not appeared, however, the report was submitted which has been referred to in the order. It is said, the persons who are having unauthorized

construction or are using the residential property for commercial use contrary to the norms cannot seek equitable relief even before this Court.

9. Having consider the submissions, we are constrained to observe that unauthorized or illegal construction commercial use of residential property contrary to the norms, rules and regulations cannot be protected. But the determination of such fact ought to be made by the authorities affording due opportunity to the owners and occupiers. In the present case, the direction, as issued by the High Court, either with respect to the jurisdiction of the civil court or for removal of the constructions appears to be without joining the appellants as party in the writ petition. It goes without saying that opportunity of hearing is a *sine qua non* for fair administration of justice and the observations of the Court should not adjudicate the rights of any parties unheard.

10. In this view, we are constrained to set aside the order of the High court and direct to restore the writ petitions (Civil Writ Petition Nos. 1528 and 2106 of 2021). The appellants herein are directed to move appropriate application within a period of two weeks from the date of uploading of this order and file their response, after affording opportunity, appropriate orders would be passed by the High Court. It is suffice to observe that the appellants may bring into the notice of the Court or of the authorities that the violation as alleged is not justified and its adjudication by the Court or by the authorities is necessitated.

11. We make it clear that if any person who is going to be affected applies to the High Court within the time as specified, they would also be permitted to join. The authorities of the State are at liberty to give wide publicity to this order for joining of the affected persons in the PIL. In case the appellants or the affected persons do not apply to join within two weeks, the High Court may examine the issue and at liberty to take decision in this regard.

12. The PILs which are restored shall be decided at the earliest, as far as possible, after affording opportunity to all concerned within a period of six months.

13. In view of the above and accordingly, the appeals are disposed of. Pending applications, if any, shall stand disposed of.