

**Mahendra Narain Singh and anr. Vs. Varanasi Development Authority and ors.**

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**Court :** Allahabad

**Decided On :** Dec-13-2002

**Reported in :** 2003(1)AWC445; (2003)1UPLBEC406

**Judge :** S.P. Srivastava and D.R. Chaudhary, JJ.

**Acts :** [Constitution of India](#) - Article 226; [Uttar Pradesh Urban Planning and Development Act, 1973](#) - Sections 14, 27, 27(1) and 27(2)

**Appeal No. :** C.M.W.P. No. 52923 of 2002

**Appellant :** Mahendra Narain Singh and anr.

**Respondent :** Varanasi Development Authority and ors.

**Advocate for Def. :** V.B. Singh, Adv. and ;Atul Mehra, S.C.

**Advocate for Pet/Ap. :** V.K. Goel, Adv.

**Judgement :**

**S.P. Srivastava and D.R. Chaudhary, JJ.**

1. Heard Sri V.K. Goel for the petitioners and Sri V.B. Singh, learned senior counsel assisted by Sri Atul Mehra for the respondent Nos. 1, 2 and 4.

2. The petitioners feel aggrieved by an order passed by the Vice-chairman of the Varanasi Development Authority, Varanasi, dated 18.11.2002 communicated on 20.11.2002, whereby the Zonal Officer has been directed to initiate immediate action for demolition of the constructions in dispute, recalling the permission sanctioning the building plan which had been granted on 27.7.1995.

3. Learned counsel for the respondents has urged that since the petitioners have an efficacious statutory alternative remedy of appeal available to them for the redressal of their grievances as envisaged under Section 27 of the U. P. Urban Planning and Development Act, 1973, which remedy has not yet been availed of by them, they deserve to be relegated to the alternative remedy for the redressal of their grievances.

4. Learned counsel for the petitioners has urged that the impugned order is not appealable and the provisions contained in Section 27 of U. P. Urban Planning and Development Act, 1973, cannot be taken to have been attracted in the facts and circumstances of the case.

5. So far as this aspect is concerned, it may be noticed that the provision contained in Section 27 (2) of the said Act of 1973 provides that any person aggrieved by an order under Sub-section (1) may appeal to the Chairman within thirty days from the date thereof and the Chairman may after hearing the parties to the appeal either allow or dismiss the appeal or may reverse or vary any part of the order. Apart from various orders which are contemplated under Section 27 (1) of the Act, an order of the Vice-Chairman, where any development in a development area has been commenced or continued or has been completed in contravention of the master plan or zonal development plan or without the permission, approval or sanction referred to in Section 14 or in contravention of any conditions subject to which such permission, approval or sanction has been granted, in relation to the development area, directing that such development shall be removed by demolition, is also included thereunder.

6. In the present case, the sanction granted earlier has been withdrawn with the result that the entire construction/development which is alleged to have been raised is rendered without any permission as the permission granted has ceased

to be operative. In such a circumstance, the order of the Vice-Chairman of such a consequence is certainly open to appeal and the appellate authority has ample jurisdiction to entertain the appeal against such an order and dispose it of as provided under Section 27 (2) of the Act.

7. In the aforesaid view of the matter, the submission of the learned counsel for the petitioners that no appeal lies against the impugned order which directs the removal of the construction treating the same to have been raised without permission is totally misconceived.

8. The writ petition, in the circumstances, is disposed of finally providing that in case the petitioners file an appeal against the impugned order within two weeks from today as contemplated under Section 27 (2) of the aforesaid Act, the appellate authority shall consider the same on merits and dispose it of by a reasoned order preferably within a period of one month from the date of production of a certified copy of this order before such authority.

9. During the interregnum, the status quo as on today in respect of the building in dispute shall be maintained.

10. Ordered accordingly.

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