

***DLF CITY RESIDENTS WELFARE ASSOCIATION & ANR
V/S
STATE OF HARYANA & ORS.***

Present: Mr. Amit Jhanji, Senior Advocate with
 Ms. Sahiba Sidhu, Advocate
 Ms. Eliza Gupta, Advocate,
 Ms. Riffat Soin, Advocate &
 Ms. Harnaaz Kaur, Advocate
 for the petitioners in CWP-1528-2021.

 Mr. Anand Chhibbar, Senior Advocate with
 Mr. Sanchar Anand, Advocate,
 Mr. Abhinav Sood, Advocate,
 Mr. Karan Pathak, Advocate,
 Mr. Arsh Bir, Advocate,
 Ms. Ateevraj Sandhu, Advocate &
 Ms. Mehndi Singhal, Advocate
 for the petitioner in CWP-2106-2021.

 Mr. Shailendra Jain, Senior Advocate, with
 Ms. Ruchi Jain, Mr. Munish Sharma, Mr. Sidharth Grover &
 Mr. Ravindra Phogat, Advocates,
 for the respondents/applicants in CMs-9408-CWP-2026,
 9471-CWP-2026, CM-449-CWP-2026; CM-282-CWP-2026;
 CM-449-CWP-2026 in CWP-1528-2021.

 Mr. Sartej Singh Narula, Sr. Advocate with
 Mr. Sandeep Verma, Advocate, Mr. Sidharth Grover, Advocate,
 and Ms. Vedika Dave, Advocate
 for petitioner(s) in CWP-19616-2026 & CWP-21596-2026 &
 for the applicant in CM-17132-CWP-2025 in CWP 1528 of 2021.

 Mr. Akshay Bhan, Senior Advocate, with
 Mr. Shantanu Bansal, Advocate, for respondents Nos. 142 to 236
 and 566 to 592 in CWP-1528-2021.

 Mr. Ravinder Phogat and Mr. Narender Parmar, Advocates
 for respondents No.19 to 34; for applicants in CMs-18087-18088-
 CWP-2025 & CM-282-CWP-2026 in CWP-1528-2021.

 Mr. Sanjeev Sharma, Senior Advocate with
 Mr. Vikram Vir Sharda, Advocate
 for respondents No.55 to 87 and
 for applicants in CMs-17132, 17133-CWP-2025 &
 CM-9734-CWP-2026 in CWP-1528-2021.

 Mr. Jai Vir Yadav, Senior Advocate with

Mr. Tarun Yadav, Advocate,
Mr. Pawan Kumar, Advocate,
Mr. Anil Yadav, Advocate, Ms. Shreya Kaushik, Advocate &
Mr. Ashutosh Sharma, Advocate
for respondents No. 335 to 361, 412 to 435, 541 & 768 to 786
and for applicants/respondents in CM-10226-CWP-2026 &
CM-13608-CWP-2026 in CWP-1528-2021.

Mr. Vikrant Rana, Advocate &
Mr. Vikas Tomar, Advocate, for applicants
in CM-1722-CWP-2025 and CM-9409-CWP-2026
in CWP-1528-2021.

Mr. Mahir Sood, Advocate, Mr. Arun William, Advocate,
Mr. Harlem Singh, Advocate, Mr. Umang Goyal and
Mr. Tarang Goyal, Advocate
for applicant in CM-11563-CWP-2026 in CWP-1528-2021.

Mr. Adarsh Dubey, Advocate;
Mrs. Aayushi S. Khazanchi, Advocate;
for the applicant in CM-12519-CWP-2026 in CWP-1528-2021.

Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Raghav Gulati, Advocate,
Mr. Varun Sharma, Advocate and
Mr. Prabhnoor Singh, Advocate, for applicants/respondents
in CMs-17515 & 17516-CWP-2025 in CWP-1528-2021.

Mr. Sunil Chadha, Senior Advocate, assisted by
Mr. Raghav Chadha, Advocate, Mr. Vikrant Rana, Advocate &
Mr. J.S.Kaliraman, Advocate
for the applicants/respondents in CWP-1528-2021.

Mr. Nachiketa Joshi, Senior Advocate with
Mr. Deepak Singh Saini, Advocate
Mr. T.R. Yadav, Advocate
Mr. Manish Yadav, Advocate
Ms. Vamika Johar, Advocate
for the respondents No.882 to 910 in CM-9938-CWP-2026
for the respondents No.911 to 960 in CM-10173-74-CWP-2026
for the respondents No.638 to 767 in CM-19090-CWP-2025
for the respondents No.44 to 45 in CM-2503-CWP-2026
for the respondents No.961 to 986 in CM-10303-04-CWP-2026
for the respondents No.987 to 994 in CM-10470-71-CWP-2026
in CWP-1528-2021.

Mr. Aashish Chopra, Senior Advocate with
Mr. Gagandeep Singh, Advocate & Mr. Garv Sood, Advocate,
for respondents No.19, 39-43, 593 to 633

in CM-10419-CWP-2026 and CM-10426-CWP-2026
in CWP-1528-2021.

Mr. Saurabh Gupta, Advocate &
Mr. Rohan Wadhwa, Advocate for the applicants-respondents
in CMs - 10136, 10169, 12827 & 14906-CWP-2026
in CWP-1528-2021.

Mr. Akashdeep Singh, Advocate
for the applicant-respondent No.20
in CM-17608-CWP-2026 in CWP-2106-2021.

Mr. Sanjay Verma, Advocate
for applicant in CM-10226-CWP-2026 in CWP-1528-2021.

Mr. Ashok Jindal, Advocate
Mr. Ayush Tyagi, Advocate & Mr. Nishchay Jindal, Advocate
for applicants/ respondents No.787 to 834
in CM-8582-CWP-2026 in CWP-1528-2021.

Mr. Gagan Oberoi, Advocate
for the applicant(s) in CM-16795-CWP-2025;
CM-13525, 13528, 13529, 13530-CWP-2026 & CM-10021-2026
in CWP-1528-2021 and for respondents No.36-38.

Mr. Randeep S. Rai, Senior Advocate
Mr. Rajeev Anand, Senior Advocate with
Ms. Radhika Mehta, Advocate; Mr. Farhad Kohli, Advocate,
Ms. Shefali Goyal, Advocate &
Ms. Sandeep Kaur, Advocate
for respondent No.13 in CWP-1528-2021 and
for respondent No.9 in CWP-2106-2021.

Mr. Bhupinder Ghai, Advocate and
Mr. Dheeraj Kumar, Advocate, for the applicant
in CM-10468-CWP-2026 in CWP-1528-2021

Mr. Harsh Sharma, Advocate &
Mr. Rishab Jain, Advocate for the applicants in CM-17911-CWP-
2025, CM-17912-CWP-2025 CM-17913-CWP-2025, CM-17892-
CWP-2025 in CWP-1528-2021.

Mr. Keshav Pratap Singh, Advocate,
Mr. Nitin Sansanwal, Advocate,
Mr. Mukul Sheoran, Advocate &
Mr. Atikant Rathee, Advocate for applicants
in CMs-17676 and 17677-CWP-2025 in CWP-1528-2021.

Mr. Anoop Kumar Yadav, Advocate,

for the applicant-respondents No.768 to 786.
CM-10166-CWP-2026, CM-10334 & 10335-CWP-2026
CM-10405-CWP-2026, CM-10554-CWP-2026
CM-10166-CWP-2026, CM-11318-CWP-2026
in CWP-1528-2021.

Mr. Amitabh Tewari, Advocate,
Ms. Sehaj Preet Kaur, Advocate,
Mr. Sahil Mander, Advocate, for respondent Nos. 436 to 524.

Mr. Tanmoy Gupta, Advocate
for the applicant-respondent No.239
in CM-10422-CWP-2026, CM-12582-CWP-2026,
CM-12687-CWP-2026, CM-10546-CWP-2026
in CWP-1528-2021 and for applicant-respondent No.41
in CM-10233-CWP-2026 in CWP-2106-2021.

Mr. Ankur Mittal, Sr. Advocate with
Mr. Pardeep Chahar, Addl. A.G.;
Mr. Karan Jindal, DAG, Haryana;
Ms. Kushaldeep K. Manchanda, Advocate;
Mr. Siddhanth Arora, Advocate
Mr. Shavindra Swaroop, Advocate for the State of Haryana.

Mr. Sharad Aggarwal, Addl. A.G., Haryana,
for respondent No.3 in CWP-2106-2021.

Mr. Rohit Dheer, Advocate
for respondent No.12-Gurugram Metropolitan Development
Authority (GMDA) in CWP-1528-2021.

Mr. Prabhdeep Singh Bindra, Advocate,
for respondents No.27 and 882 in CWP-1528-2021
for respondents No.12 & 13 in CWP-2106-2021
for applicants in CMs-1282-83-CWP-2026, 1292-93-CWP-2026
in CWP-2106-2021 and
for applicants in CMs-1287-88-CWP-2026, 1310-11-CWP-2026
in CWP-1528-2021.

Ms. Kadambari Singh, Senior Advocate with
Ms. Mannu Chaudhary, Advocate;
Mr. Gursher Singh Bhandal, Advocate;
Mr. Rahul Verma, Advocate &
Ms. Prabhjot Kaur, Advocate
for respondents No.793 & 794 in CWP-1528-2021.

Mr. Aalok Jagga, Advocate, Mr. Karan Inder Singh, Advocate,
Mr. Vansh Jindal, Advocate & Ms. Khushi Bhatia, Advocate

for the applicant in CM-9510-CWP-2026 and CM-18813-CWP-2025 in CWP-2106-2021

&

for the applicant in CM-9511-CWP-2026 and CM-18819-CWP-2025 in CWP-1528-2021.

Mr. Sukhandeep Singh, Advocate,
for the applicants/respondents
in CM-17366-CWP-2025 in CWP-1528-2021.
and CM-17369-2025 in CWP-2106-2021.

Mr. Mukesh Rao, Advocate for respondent No.565.

Ms. Meenakshi Sharma, Advocate &
Mr. M. L. Sharma, Mr. Sushil K. Sharma, Advocate
for the applicant in CM-17596-CWP-2025 in CWP-1528-2021;
CM-17595-CWP-2025 in CWP-2106-2021.

Mr. Anshuman Dalal, Advocate,
for respondent Nos.963 and 964
in CM-11174-CWP-2026 in CWP-1528-2021.

Mr. Aditya Dasaur, Advocate
for respondent Nos.20 to 22 in CWP-1528-2021.

Mr. Jasdeep Singh, Advocate
for respondent Nos. 240 to 279 in CWP-1528-2021 and
for respondent Nos. 301-330 in CWP-2106-2021.

Mr. Jasvinder Singh Nagla, Advocate
for the applicants/respondents
in CM-10459-CWP-2026 and CM-14953-2026
in CWP-1528-2021.

Mr. Rakshit Raj Chauhan, Advocate and
Mr. Lakshay, Advocate, for respondent No.881.

Mr. Arvind Seth, Advocate, and
Mr. Jatin Kaushal, Advocate, for respondent-DHBVN
in CWP-1528-2021.

Mr. Balkar Singh, Advocate,
for the applicants in CM-10143-CWP-2026 in CWP-1528-2021 &
CM-10144-CWP-2026 CWP-2106-2021.

Mr. Akshay Kumar Jindal, Sr. Advocate with
Mr. Yash Yadav, Advocate; Mr. Yashvardhan Goyal, Advocate &
Ms. Myia Malhotra, Advocate
for the applicants in CM-19559 & 19560-CWP-2025

in CWP-2106-2021.

Mr. S. P. Chahar, Advocate &
Ms. Savita Chahar, Advocate for respondent No.883
in CM-10476-CWP-2026 in CWP-1528-2021 &
for respondent No.26 in CM-10474-CWP-2026
in CWP-2106-2021.

Mr. Himanshu Chhabra, Advocate &
Mr. Dhruv Goyal, Advocate for applicant-respondent No.937-941
in CM-10600-CWP-2026 & CM-15421-CWP-2026
in CWP-1528-2021.

Mr. Vishal Sharma, Advocate
for the applicants in CM-15134-CWP-2026 and
CM-17297-CWP-2025 in CWP-1528-2021.

1. This order disposes of the preliminary objection raised by the added respondents, that after a colony licensed under the Haryana Development and Regulation of Urban Areas Act, 1975 ('1975 Act'), comes to be situated within the limits of a Municipal Corporation, the Director, Town and Country Planning Department, or its delegate does not possess jurisdiction to proceed against individual plot holders/occupiers in respect of building violations and such jurisdiction passes exclusively to the Municipal Corporation under the Haryana Municipal Corporation Act 1994 ('1994 Act').

2. A brief narration of the factual background is required at the very outset. The present petitions were filed by raising a grievance regarding inaction on the part of the respondent No.4-District Town Planner (Enforcement), as regards the issue of illegal constructions in and around Gurugram and especially in DLF Phase-I to V. It was the case of the petitioners that on the complaints raised by them, an enquiry was conducted by the official respondents, which culminated into action taken reports dated 19.11.2018 (Annexure P-2) and 22.02.2019 (Annexure P-3), which disclosed that there

were large scale unauthorized constructions in DLF Phase-III, Gurugram and although recommendations were made for cancellation of occupation certificates, registration of criminal cases, and disconnection of utilities, however, no concrete action was taken.

3. During the course of the proceedings, a comprehensive survey of the colony was got conducted by survey teams constituted in terms of the directions passed by respondent No. 4 and interim progress reports were filed on 11.12.2024, 10.01.2025, and 22.01.2025. The survey covered the whole of the licensed area across the five phases comprising 14757 plots, of which 11008 are of general category, and 3749 are of the economically weaker Section category. A synopsis was placed on record in a tabular form, *inter alia* detailing therein the recorded violations such as commercial use in residential areas/plots and construction beyond permissible FAR/Additional Floors, which were classified as non-compoundable in nature, both in the General and EWS Category, across different phases. Notices under Section 10(2) of the 1975 Act followed, as did the restoration orders, while action of sealing, demolition and registration of FIR's was taken in a few cases, under Section 3 and 10 of the said Act. It was brought to the notice of the Court that despite a specific jurisdictional bar under Sections 15 of the 1975 Act, the Civil Courts are entertaining suits filed by the violators and the orders passed by the statutory authorities are being stayed, which is constraining the authorities from taking action against such violators.

4. Taking into consideration the aforesaid factual position, a Co-ordinate Bench of this Court, vide order dated 13.02.2025, directed that the Civil Suits be closed forthwith after granting an opportunity of hearing to all

concerned within two months. The Civil Courts concerned, seized of the suits qua the subject matters, were directed to consider all the objections against the maintainability of such suits and to formulate and decide the same as a preliminary issue, within the stipulated period of two months. Further directions were passed upon the official respondents to take prompt action with respect to the illegal constructions as per the tabulations placed on record, within two months.

5. Aggrieved by the aforesaid order, several plot owners/occupiers, who claimed to have been condemned unheard, approached the Hon'ble Supreme Court of India, and vide order dated 28.10.2025, passed in Civil Appeal Nos.13045-13046 of 2025, titled as ***Gaurav Kohli and others vs. State of Haryana and others***, the Supreme Court, remitted the matter back primarily on the ground that the appellants were required to be given an opportunity of hearing. The observations made in paragraph Nos. 9 to 12 of the order dated 28.10.2025 read as under :-

“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.”

6. In pursuance to the directions passed by the Supreme Court, the petitions were restored and a Co-ordinate Bench of this Court, vide order dated 26.11.2025, *inter alia*, recorded that the parties are *ad idem* that it will be much better if the Executive authority concerned, which has prepared the survey report and is a competent authority to deal with the building violations, namely, District Town Planner (Enforcement), Gurugram-respondent No. 4, be the authority to decide the said issue. It is at this stage that the learned senior counsel appearing on behalf of the applicants, intending to become a party, raised an objection qua the jurisdiction of respondent No. 4. The said respondent was directed to hear the objections and thereafter place the matter before the Court. Public notices were issued on 04.12.2025 and 19.12.2025, which were published in seven newspapers on each occasion. It transpires that 763 objections were received against 5099 identified violators. Speaking orders followed on 19.01.2026, including an order by which the authority rejected the objection to its own jurisdiction.

7. It is in this factual backdrop that the issue pertaining to jurisdiction is being adjudicated by us.

8. Contentions on behalf of the added respondents.

8.1 The arguments advanced by the respective learned Senior counsels and learned counsels appearing on behalf of the added respondents, are being taken up together, in order to avoid repetition. At the very outset, it has been argued that once a licensed colony situated in a controlled area becomes part of a Municipal Corporation, District Town Planner (Enforcement) [‘DTP(E)’], who is a delegate of the Director, Town and Country Planning Department (‘DTCP’), cannot continue to exercise jurisdiction over erection/re-erection, building violations, demolition, or sealing of individual buildings by invoking Section 3B or Section 10 of the 1975 Act. It is submitted that the statutory regime operates in distinct but complementary fields, and while the license and the approved layout conditions would survive municipalization, but the Act of 1975 contains no provision conferring exclusive building-control jurisdiction upon DTP(E), much less any provision ousting jurisdiction expressly vested upon the Municipal Corporation, Gurugram (‘MCG’) under the 1994 Act.

8.2 It is submitted that after coming into force of the 74th Constitutional Amendment, Municipalities are recognized as institutions of self-governance. Our attention has been invited to Article 243-W read with the 12th Schedule, in order to substantiate the argument that the State Legislature has devolved urban planning, town planning, regulation of land use, and construction of buildings upon municipalities, as is explicit from the perusal of the provisions of the 1994 Act. While referring to the scheme of the said Act and Sections 2(30) and 3(4) in particular, it is contended that once an area forms

part of the municipal area, the municipal administration would be governed by the 1994 Act and upon inclusion of such area within the corporation, the Rules, regulations, notifications, bye-laws, orders, directions and powers under the 1994 Act, extend to that area, unless the Government directs otherwise. Parallely adverting to the provisions to the 1975 Act, it is contended that there is no provision expressly excluding the application of the 1994 Act to a licensed colony, nor any notification has been issued under Section 16 thereof, and therefore, in the absence of any provision divesting the Commissioner/MCG, of the powers expressly conferred under the 1994 Act, there will be no jurisdiction with the DTP(E) over individual building regulation, after municipalization.

8.3 It is further contended that no notification, order or direction of the State Government has been brought on record, excluding DLF Phase-I to V or the licensed colonies in question, from the operation of the 1994 Act. Submission is that in the absence of such statutory exclusion, jurisdiction expressly vested in the MCG, cannot be displaced merely by inference from a license issued under the 1975 Act. Further elaborating on the point, it is submitted that where the intent of the legislature was that the 1975 Act is to prevail over the specific provisions of the 1994 Act, it was expressly provided for. The provisions of Section 232(3) of the 1994 Act have been cited as an example, which states that Sections 230, 231, and 232 shall not apply to any land to which the 1975 Act applies. Submission is that there is no such comparable exclusion in Chapter XIV or XX.

8.4 It is submitted that the provisions of Section 203-C and 203-G of the Haryana Municipal Act, 1973 ('1973 Act') and Sections 346-350 of the 1994 Act, brought controlled areas within the municipal statutory framework

and transferred powers formerly exercised under the 1963 Act to municipal authorities. It is therefore argued that the 1994 Act leaves no statutory vacuum requiring independent DTCP jurisdiction to be implied. It is further submitted that Section 3B of the 1975 Act and license conditions requiring conformity with the said Act and Rules framed thereunder, may preserve the obligation that development within a licensed colony should conform to its approved plan and license conditions. However, the same cannot be said to confer upon the DTP(E), a statutory jurisdiction, which the parent enactment does not confer, nor can it impliedly extinguish jurisdiction expressly vested in the Corporation by a later statute. While conceding that Section 3B was inserted by Haryana Act No. 11 of 2003, it is contended that the same cannot establish an exclusive DTCP building-control jurisdiction, dating from the commencement of the 1994 Act. It is further argued on behalf of the added respondents that the 1975 Act, principally regulates licensing and development of colonies, and obligations of colonizers. It contains no independent building-sanction and building-enforcement codes as contained in the 1994 Act. The mere fact that building plans were historically sanctioned under the 1963 Act/1965 Rules, cannot enlarge Section 10 of the 1975 Act and a violation under the earlier regime cannot be imported by implication into Section 10, to create coercive powers, not otherwise conferred by that provision. While inviting our attention to Section 18 of the 1975 Act, it is submitted that the same preserves the operation of other enactments, but does not establish DTCP jurisdiction or impliedly repeal municipal powers.

8.5 It has been strenuously argued that while Section 263A of the 1994 Act, expressly confers power to seal premises where erection or work is

undertaken, in contravention of the said Act, however, there is no corresponding provision under the 1975 Act conferring such a power upon the DTP(E) in respect of buildings within MCG. Such power cannot be inferred merely from the license conditions.

8.6 It has been pointed out that in various proceedings before the Civil Courts at Gurugram, the MCG has taken a categorical stand that the plaintiffs therein are unlawfully constraining it from exercising its powers under the 1994 Act. It is simultaneously argued that certain civil suits have been decreed, by holding that the DTP(E) does not have jurisdiction. It is further contended that the MCG itself has exercised jurisdiction by issuing show cause notices in licensed colonies, under the 1994 Act.

8.7 While highlighting the distinction between colony licensing and municipal administration, it is argued that the same becomes particularly clear in relation to the provisions pertaining to public amenities. It is submitted that while the 1975 Act may impose obligations upon a colonizer regarding development works and amenities as license conditions, however, no provision contained thereunder, makes the DTP a municipal authority, responsible for continuing provision, operation and administration of ordinary civic amenities, within a municipal corporation. It is urged that DLF's failure to hand over public amenities and infrastructure to MCG, despite nearly four decades, cannot indefinitely suspend the operation of the 1994 Act, nor can the incomplete handover, create jurisdiction in DTP(E) which the statute does not confer. Submission is that that State cannot simultaneously deny MCG jurisdiction on the ground that the license was granted under the 1975 Act, while

acknowledging no corresponding statutory responsibility of DTP for providing civic amenities.

8.8 Reliance has been placed upon a decision by a Co-ordinate Bench of this Court in ***M/s Krishna Industries vs. State of Haryana and others, 2020 (3) RCR (Civil) 803***, to contend that the question regarding jurisdiction of the authorities under the 1994 Act over colonies licensed under the 1975 Act, after inclusion in a Municipal Corporation, is no longer *res integra*. It is argued that the Division Bench of this Court recognized that the Act of 1994 is a self-contained code for municipal administration, including erection/re-erection, use of premises, offences, penalties and appeals. It is submitted that the decision in ***Krishna Industries*** (supra) was challenged before the Supreme Court, and the SLP No.12072 of 2020 was dismissed vide order dated 19.12.2024, and therefore, the principle enunciated in ***Krishna Industries*** (supra) has attained finality.

8.9 Reliance is further placed upon the decision of this Court in ***Rajat Kuchhal & Ors. vs. State of Haryana & Ors., 2012 SCC Online P&H 15109***, and ***Premier Spinning Mills Pvt. Ltd. & Ors. vs. State of Haryana & Ors., AIR 2005 P&H 280***, in support of the argument that once the controlled area fell within municipal limits, powers and functions previously exercised by DTCP under the 1963 Act, would stand conferred upon authorities under the Haryana Municipal Act, 1973 ('1973 Act').

8.10 The added respondents have sought to explain the 'rationalized two-layer position' by referring to the governing regime after municipalization. Submissions are also made highlighting the various independent grounds on which the impugned proceedings would be invalidated, like survey having been

carried out by an authority lacking jurisdiction; the same being unilateral; statutory procedure not having been followed, etc..

8.11 As regards the aspect of ‘misuse’, it is argued that Section 3B of 1975 Act does not touch the misuse of a building, and therefore the notices in this regard are without jurisdiction on the very face of it. It is submitted that section 3B forbids erection or re-erection of buildings otherwise than in accordance with the approved plans and license conditions, and says nothing of the use to which a lawfully erected building is afterwards put to. Submission is that there is no provision in the 1975 Act, corresponding to section 7(1) of the 1963 Act or section 348 of the 1994 Act, which alone prohibit change of user.

8.12 It is further contended that Section 3B did not exist prior to 03.04.2003, and since it was undisputedly not made retrospective, in absence of the department disclosing the date on which the construction complained of was raised, the said provision cannot be pressed upon.

9. Contentions on behalf of the State

9.1 Mr. Ankur Mittal, learned senior counsel appearing on behalf of the State has vehemently controverted the arguments raised on behalf of the plot holders/occupiers, and submits that the same proceed upon a complete misreading of the statutory scheme. It is submitted that in order to have complete clarity as regards the aspect of jurisdiction, it is necessary to understand the scope of the various governing Acts and the overlapping areas which require a harmonious construction by this Court. Mr. Mittal, has made a reference to various provisions of the four governing Acts, and the Rules framed thereunder and in context of the said statutes, it is submitted that the present *lis* involves four types of ‘areas’, i.e. (i) controlled areas declared under

Section 4 of the 1963 Act outside municipal limits, (ii) municipal areas, (iii) controlled areas declared under Section 4 of the 1963 coming within municipal limits or extension of such limits, and (iv) urban areas. Submission is that under the 1963 Act, a controlled area is declared outside the municipal limits and when such an area is drawn within municipal limits, by operation of Sections 203-C and 203-G of the 1973 Act, and Sections 346 and 350D of the 1994 Act, the powers previously exercised by the DTCP under the 1963 Act, stand transferred to the municipal authorities. However, that transfer is of the powers under the 1963 Act, and of nothing else. The net effect is that as regards controlled areas falling outside municipal limits, the DTCP is the competent authority, and as regards controlled areas falling within the municipal limits, the Director, Urban Local Bodies, is the competent authority. It is contended that the judgment of this Court in the case of ***Rajat Kuchhal*** (*supra*) elaborated and settled this precise proposition and the applicability of the 1975 Act vis-à-vis the Municipal Acts, was not an issue in question in the said case.

9.2 It is further submitted that the 1975 Act is a special enactment, exclusively regulating and controlling the sub-division of land into a colony in urban areas, by a mechanism of licensing. Being a special law, it supersedes the 1963 Act and the municipal enactments to the extent provided therein, subject to the savings in Sections 16 and 18. It is argued that all licenses to develop a colony, including the one involved in the present petitions, are granted under the 1975 Act and not under the 1963 Act. While making a reference to Section 3B of the 1975 Act, it is submitted that the same subjects any erection or re-erection by any ‘*person*’, and it is pointed out that the word used is ‘*person*’ and not ‘*developer*’ or ‘*colonizer*’, and therefore the provision includes within its

ambit an allottee within the licensed area, to the restrictions and conditions provided in the license. Our attention has been invited to the original layout plan approved by the Director, which *inter alia* imposes a condition that buildings shall be raised as per the approved zoning plan and the building regulations contained in the 1965 Rules, now replaced by the Haryana Building Code, 2017. It is contended that the reference to the 1965 Rules is for the limited purpose of imposing building regulations, since separate building norms have not been laid down under the 1975 Act, and does not carry the 1963 Act into 'urban areas'. Submission is that any building violation within the licensed colony is therefore a contravention of Section 3B of the 1975 Act, and, in addition, of a condition of the license, and falls within Section 10 thereof.

9.3 Adverting to Section 232(3) of the 1994 Act, it is pointed out that the provision itself gives way to the 1975 Act, in as much as Sections 230 and 231 deal with the power of the Corporation to sanction layout plans for division of plots, and the said express provision of the 1994 Act shows that the 1975 Act prevails where the question concerns sub-division of lands by a colonizer. It is further submitted that the saving is only in respect of the power of authorities, such as the Haryana Shehri Vikas Pradhikaran or Improvements Trusts to develop lands themselves, but where a colonizer is to develop the land, the license must be under Section 3 of the 1975 Act.

9.4 As regards the two-layered position pressed by the applicants, that the competent authority for grant of license is the department, while compliance with building norms is within the domain of the municipal authority, it is submitted that such an argument is fallacious and would produce the anomaly of one authority sanctioning and another taking action. It is pointed out that a

license is granted not only for a plotted colony, but also for group housing and integrated commercial complexes, where the construction of the building is itself the subject matter of regulation under the 1975 Act.

9.5 Reliance has been placed upon a Full-Bench decision of this Court in ***Krishan Chand vs. State of Haryana and others***, CWP-765-1978, decided on 17.03.1978, wherein the constitutional validity of the 1975 Act was upheld. The said decision was followed and reiterated in CWP-778-1979, decided on 10.05.1979. The decision in the case of ***Hardam Singh & Another vs. State of Punjab & Ors.***, AIR 1983 P&H 340, is cited to advance the argument that the vires of a similar Act enacted by the State of Punjab, namely the Punjab Regulation of Colonies Act, 1975, was also upheld. The specific challenge laid to the validity of Section 7A of the 1975 Act was rejected in the case of ***Suresh Kumar Juneja vs. State of Haryana & Ors.***, 2011 (4) RCR (Civil) 508.

9.6 While distinguishing the judgment in the case of ***Krishna Industries (supra)***, it has been pointed out that the same was a case of a colony under the 1963 Act, and that as observed in the judgment itself, the layout plan came into existence before the 1975 Act. It is submitted that even though the phrase ‘*licensed colony*’ is used in the judgment, but in fact, it was a case of change of land use of an individual plot originally allotted as a community hall, and being used as an industry, where action had been initiated by the Pollution Control Board. While drawing the attention of the Court to the paper-book in the said matter, it is pointed out that the Department of Town and Country Planning, Haryana was not even a party therein. It is contended that even though a specific issue was framed by referring to the 1975 Act, but since the entire scheme of the 1975 Act was not placed before the Court, for the obvious

reason that the issue involved emanated only from the 1963 Act, therefore, observations regarding 1975 Act are only ‘*obiter*’ and cannot be said to be ‘*ratio*’ having any binding precedential value. It is submitted that law is well settled that a judgment is to be read in the light of the facts, and since the facts in the said matter exclusively dealt with the 1963 Act, the ratio of the judgment is virtually the same as culled out in the case of ***Rajat Kuchhal*** (*supra*), as regards the merging of controlled areas into municipal limits. The same does not affect the power of the 1975 Act over ‘*urban areas*’, which is distinct and is a special Act exclusively dealing with grant of license to develop a colony.

9.7 Adverting to the case of ***Premier Spinning Mills*** (*supra*), it is contended that the same also arose out of a permission for change of land use under the 1963 Act, and was not a case of license under the 1975 Act. Further, the judgment makes reference to the provisions of Section 203G, and is rather aligned with the argument and stand of the State.

9.8 Learned senior counsel appearing on behalf of the State has controverted the argument of the applicants that in view of Article 243-W of the Constitution of India read with the 12th Schedule, it is the Municipalities that have been bestowed with the power to regulate urban planning. It is submitted that Article 243-W is an enabling provision which does not by itself repeal existing statutes. Reliance in this regard is placed upon ***Shanti G. Patel & Ors. vs. State of Maharashtra & Ors.***, (2006) 2 SCC 505, and ***Dalbir Singh Dhindsa and others vs. State of Punjab and others***, 2013 (3) RCR (Civil) 915. It is therefore submitted that Article 243-W *ipso facto* cannot be read to imply that the 1975 Act ceases to exist, and that all powers are automatically transferred to the municipal authorities, more so, when the said Act neither

interferes, nor takes away powers of the Municipal authorities in urban planning. It is further submitted, that the jurisdiction under the 1975 Act is limited to the extent provided therein, i.e. the license and its conditions and since one of the conditions is adherence to building norms, thus any violation of the same, falls within the exclusive domain of the DTCP under the 1975 Act, and for all other purposes, the Municipal Act remains in full force.

9.9 The learned senior counsel has argued that the grant of license by DTCP is subservient to the development plan prepared under the 1963 Act, or the 1973 Act, or the 1994 Act. Submission is that the development plan is central and sacrosanct. It is further submitted that the Municipal Acts and the 1975 Act governing the urban areas, go hand in hand, while governing two different fields, i.e. for the purposes of a colony and the colonizer, the 1975 Act is exclusively applicable, and for the change in land use permission, the authority is with the Director, Urban Local Bodies. It is pointed out that there being no challenge to the 1975 Act, reliance on Article 243-W to read down the law, is misconceived.

9.10 In summation, it is argued that each enactment operates within its own defined field, with the common legislative objective of ensuring planned and regulated urban development. Since, Section 3B regulates erection or re-erection of the buildings in licensed colonies, while Section 10 provides the mechanism for action against violations of the Act or the conditions of the license, accordingly, where the building violations pertain to a licensed colony developed under the 1975 Act, there the DTCP or an officer duly authorized by him, is competent to initiate the proceedings. It is emphatically argued that the applicants who are owners/occupiers having been caught for violating the law,

are questioning the jurisdiction of the authority, which sanctioned all building plans and that too, on untenable grounds, which are required to be rejected by this Court, being a court of equity.

10. Contentions on behalf of the petitioners

10.1 Mr. Amit Jhanji, learned senior counsel appearing on behalf of the petitioners has opposed the arguments raised on behalf of the added respondents, and has submitted that the scope of adjudication before this Court stands narrowed down to a solitary question of fact, that whether the construction or occupation thereon, qua each surveyed property, is at variance with the sanctioned building plan, layout plan or zoning plan of the license colony. It is submitted that a statutory mechanism has already been carried to its conclusion, i.e. a survey of DLF Phases I to V stands concluded, individual show cause notices in pursuance thereto have been issued, opportunity of representation to affected owners/occupants stands provided, and the DTP (Enforcement) has passed speaking orders, after considering the representations filed. It is therefore argued that the role of this Court, is confined to ascertaining, whether the statutory process has been duly followed in consonance with the order of Hon'ble Supreme Court. The learned Senior Counsel has invited our attention to paragraph Nos. 9 to 11 of the order passed by the Supreme Court in ***Gaurav Kohli and others (supra)***, and it is contended that a joint reading of the same demonstrates that the allegation of violation constituted the operative starting point on record, and an onus was cast upon the appellants as well as the occupants/owners to demonstrate the absence of violation, contingent only upon the grant of an opportunity of hearing, which has since been duly afforded. It is further submitted that in pursuance to the

matter having been remitted by the Apex Court, this Court vide order dated 26.11.2025, provided that the surveyors' report containing the building-wise particulars of violations be furnished to every applicant desirous of being heard. Each such applicant was afforded time, upto 16.01.2026, to submit a representation/objection controverting the contents of the said report qua their respective property. Submission is that the Court recognized the competence of the DTP (Enforcement), Gurugram to carry suitable surveys to identify violations and simultaneously furnished a complete, fair and statutorily compliant opportunity to the respondents to discharge the onus cast upon them.

10.2 It is further submitted that once the mechanism of participating in the hearing before the DTP (Enforcement), stood invoked and exhausted, after the issuance of public notices dated 03.12.2025 and 15.12.2025, the applicants/added respondents cannot now contend that the authority had no jurisdiction, after having failed to secure a finding in their favour. It is argued that the added respondents have raised technical objections like jurisdiction of the DTP (Enforcement), rather than give property-wise factual rebuttal, which would clearly show that the same is a deliberate attempt of delaying the whole matter and continuing with the large scale building violations.

10.3 It is further contended that undisputedly all building plans, sanctions have been granted by the DTP and all matters pertaining to building violations are now governed by the Haryana Building Code, 2017, and therefore the added respondents have failed to show that they shall suffer any real prejudice due to the mechanism already adopted.

11. Contentions on behalf of respondent No. 13.

11.1 Mr. Randeep Singh Rai, learned Senior Counsel appearing on behalf of respondent No. 13-Colonizer, in addition to the arguments raised by the Petitioners, contends that this Court vide order dated 26.11.2025 consciously chose to assume supervisory role and delegated the power to the DTP (Enforcement) to deal with the issue of building violations and pass an order in this regard, which was to be placed before this Court, to enable it to form an opinion, whether the required action is being taken in accordance with the directions of the Supreme Court.

11.2 It is the further contention that the Act of 1975 being a special Act, applies to all urban areas by force of Section 1 (2) read with Section 2 (o) and the mere fact that an area comes under a Municipal Corporation, does not make the authority under the Act of 1994, the competent authority for a license colony. While referring to Section 83 of the Haryana Urban Development Authority Act, 1977 (now HSVP Act), it is argued that even if entire proceedings of violations are conducted under the Act of 1977, the proceedings conducted under the 1975 Act are saved.

11.3 It is further submitted that, if the argument of the added respondents were to be accepted, it would have grave consequences for a licensed colony. Submission is that a colony is a composite area licensed as a whole. If each plot-holder or apartment owner were free to deal with his unit under the Act of 1994, as if it were a free standing building, individual owners could make unilateral modifications to areas not exclusively under their control, including common areas, common facilities, parks, open spaces and other regulated portions of the development. This, according to the learned Senior

Counsel would not only defeat the purpose and object of the 1975 Act and the statutory development control mechanism, but could also have serious and far reaching consequences for the rights of other allottees, apartment owners and residents. As regards the question of hand over, it is submitted that so long as the colony remains under the colonizer's license and has not been formally transferred to the Municipal Corporation in accordance with Section 3 (3) (a) (iii) read with Section 23-A of the Act of 1975, the department retains primary jurisdiction and the jurisdiction of the Municipal Corporation arises only after the hand over.

11.4 Reiterating the arguments of the petitioners regarding substitution of part VII of the rules of 1965 by the Haryana Building Code, 2017, it is submitted that unless actual prejudice is demonstrated on account of the applicability of the Act of 1975, a jurisdictional objection ought not to be permitted to over shadow the substantive issue, particularly, when it has not been shown that the alleged violations, can be validated or compounded under the Act of 1994.

11.5 Lastly, reliance has been placed upon a single Bench decision of this Court in the case of ***Exotica Condominium Owners Association Vs. R.S. Business Solutions Pvt Ltd. and Another, in CR-4668-2019 decided on 20.04.2024, neutral citation 2024: PHHC: 054045*** which was upheld by the Supreme Court in ***SLP (Civil) Diary No. 22225 of 2024, decided on 05.08.2024***, and upon the passage in ***Krishna Industries (supra)*** recording that the layout plan of the area concerned therein was sanctioned on 11.09.1973, i.e. before the Act of 1975 was enacted.

12. Analysis and findings

12.1 We have heard the learned counsel for the parties at length and have gone through the material available on record, with their able assistance.

12.2 At the very outset, we may notice that primarily four enactments and one constitutional provision have been placed before us. Since the arguments on both sides turn upon the language employed therein, it is necessary to examine the relevant provisions, before considering the rival submissions.

I. Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963

12.3. The 1963 Act was the first statute in the field. Its Preamble declares it to be an Act to prevent haphazard and sub-standard development along scheduled roads and in controlled areas. Section 2(4) defines a ‘*controlled area*’ as an area declared under Section 4, which in turn, empowers the State Government to declare, by way of a notification, any area outside the limits of a municipal town, or any other area, which in its opinion has potential for building activities, industrial, commercial, institutional, recreational activities and uses subservient thereto, to be a controlled area.

12.4. Section 5 provides for the publication of plans for controlled areas, containing restrictions in the form of usage of land, erection or re-erection of buildings, alignment of buildings and the amenities to be provided. Section 6 prohibits the erection or re-erection of buildings otherwise than in accordance with the plan and the restrictions imposed, and save with the permission of the Director. Section 7 is the provision governing user, and prohibits the use of land in a controlled area for a purpose other than that for which it was being used on

the date of publication of the notification under Section 4, except with the permission of the Director. Section 12 makes contravention an offence, and provides the machinery of notice, restoration, and consequential measures. Section 25 is the rule-making power under which the Rules of 1965 were framed. It may be noticed that earlier Rule 38 to 125 contained building regulations and now the same have been substituted with Haryana Building Code, 2017 vide a notification dated 08.03.2017. Two features of the 1963 Act must be kept in view. Firstly, the competent authority throughout is the DTCP Haryana, as defined by Section 2(6). Secondly, and more importantly, a controlled area is by definition declared outside the limits of a municipal town.

II. The Haryana Municipal Act, 1973 and Haryana Municipal Corporation Act 1994.

12.5. With the outward growth of Municipal limits, areas declared as controlled areas under the 1963 Act, came to be engulfed within municipal limits. That produced a conflict of jurisdiction between the DTCP on the one hand, and the municipal authorities on the other. The legislature resolved it by amending the municipal enactments so as to bring controlled areas within the municipal limits into the municipal statutory framework. The scheme, as was placed before us, and as we understand it, is this:-

Haryana Municipal Act, 1973	Haryana Municipal Corporation Act, 1994
Section 2(7A) defines ‘controlled areas’ Section 2(9) – definition of ‘Director’ to mean director of Urban Local Department.	Section 2 (9A) – definition of ‘Director’ means Director, Urban Local Bodies.
Section 203C(1) – Any area which is	Section 346 – Any area which is already

already declared as controlled area by DTCP is deemed to be controlled area under the Act.	declared as controlled area by DTCP under 1963 Act or Punjab New Capital Periphery Control Act, 1952 is deemed to be controlled area under this Act and any plan prepared for controlled area shall be deemed to be planned under this Act.
Sub Section (3) to Section 203C is <i>pari materia</i> to Section 5 of Act of 1963.	Section 348 – Land shall be used for other purpose only in accordance with permission for change of land use taken under 1963 Act.
Section 203G – Director Urban Local Bodies shall perform all the functions of DTCP under 1963 Act.	Section 350D – An Act done under 1963 Act or 1952 Act shall be deemed to be done under this Act.
Proviso to Section 203G provides that where provisions of 1973 Act are silent regarding provision of the Controlled Area, then Provisions of 1963 Act, shall be applied <i>mutatis mutandis</i> within Municipal Limits.	Proviso to Section 350D (added w.e.f. 01.04.2014) provides that where provisions of 1994 Act are silent regarding provision of the Controlled Area, then Provisions of 1963 Act, shall be applied <i>mutatis mutandis</i> within Municipal Limits.

12.6 Section 263A of the 1994 Act expressly confers a power to seal premises where erection or work is undertaken in contravention of the said Act. Section 347 to 349 provide the mechanism for permission and regulation of erection, re-erection, and use. Section 350A prescribes the officer and the procedure in the case of misuse. It may be noticed that since 01.04.2014, by Haryana Act 12 of 2014, the competent authority under Sections 346 to 350B is the Director, Urban Local Bodies, and not the Commissioner.

12.7. Two provisions of the 1994 Act, which were placed before us, are required to be reproduced. Section 3(4) reads as under:-

“Section 3. Declaration of Municipal area as Corporation

(1) to (3) xxx

(4) When the limits of the Municipal areas are altered, so as to include therein any area, except as the Government may otherwise by notification, direct, all rules, regulations, notifications, bye-laws, orders, directions and powers issued or conferred and all taxes imposed under this Act; and in force in the Municipal area shall apply to such area.”

Section 232(3) of the 1994 Act, reads as under:-

“Section 232. Alteration or demolition of street made in breach of Section 231

(1) and (2) xxx

(3) Nothing in Sections 230, 231 and this Section shall apply to any land to which the provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 (Haryana Act No. 8 of 1975) apply.”

III. Haryana Development and Regulation of Urban Areas Act, 1975

12.8 The 1975 Act is the statute in issue. Its object is to regulate the use of land, in order to prevent ill-planned and haphazard urbanization in or around towns and for the development of the infrastructure sector and infrastructure projects, for the benefit of the State of Haryana, and for matters connected therewith and incidental thereto. By virtue of Section 1(2), it extends to all urban areas in the State of Haryana.

12.9 The definition of ‘urban area’ in Section 2(o) is central to the controversy and is set out in full:-

“2(o). “Urban area” means any area of land within the limits of a municipal area or notified area or the Faridabad Complex or situate within five kilometres of the limits thereof, or any other area where, in the opinion of the

Government, there is a potential for building activities and the Government by means of notification declares.”

12.10 Section 2(c) defines a ‘colony’ as the division of land or proposed division into plots or flats for residential, commercial, industrial, cyber city, or cyber park purposes, or for the construction of lands in the form of group housing, or for the construction of integrated commercial complexes, or for division into plots for a low-density eco-friendly colony, with an exemption clause where sub-division does not constitute a colony. Section 2(d) defines a colonizer, Section 2(dl) defines a developer, and Section 2(f) defines the Director, which means the Director, Town and Country Planning, Haryana.

12.11 Section 3 requires any person desiring to convert land into a colony to apply for a license to develop it, subject to such terms and conditions as are approved by the Director. Section 3B, inserted by the Haryana Act 11 of 2003, with effect from 03.04.2003, is the prohibition upon which the issue under consideration rests. It reads as under:-

“3-B Erection or re-erection of buildings in a licensed colony: — No person shall erect or re-erect buildings in a colony save in accordance with approved plans and subject to such restrictions and conditions as are contained in the license or as may be specified by the Government or the Director.”

12.12 Section 7 prohibits advertisement and transfer of plots in a colony, and erection of buildings therein, without obtaining a license under Section 3. Section 10 supplies the machinery for enforcement and reads as under:-

10. Penalties.— (1) Any person who contravenes any of the provisions of this Act or the rules made thereunder or any of the conditions of a license granted under Section 3 shall be punishable with imprisonment of either description for a term which may extend to three years and shall also be liable to fine:

Provided that where only of the provisions of Section 9 are contravened the punishment of imprisonment shall not exceed six months.

(2) Without prejudice to the provisions of sub-Section (1), the Director or any other officer authorized in writing by him in this behalf may, by notice, served by post and if a person avoids service, or is not available for service of notice, or refuses to accept service, then by affixing a copy of it on the outer door or some other conspicuous part of such premises, or in such other manner as may be prescribed, call upon any person who has committed a breach of the provisions referred to in the said sub-Section to stop further 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, any building or land in respect of which a contravention such as is described in the said sub section has been committed and if such person fails to show cause to the satisfaction of the Director or such authorized officer within a period of seven days, the Director or such authorized officer may pass an order requiring him to restore such land or building to its original state or to bring it in conformity with the provisions of this Act or the rules framed there-under, as the case may be, within a further period of seven day.

(3) If the order made under sub-section (2) is not carried out within a specified period, the Director, or any other

officer authorized in writing by him in this behalf may, himself at the expiry of the specified period, take such measures, as may appear necessary to give effect to the order and the cost of such measure shall, if effect to the order and the cost of such measure shall, if not paid on demand being made to him, be recoverable from such person as arrears of land revenue:

Provided that even before the expiry of the period mentioned in the order under sub section (2), if the Director or such authorized officer is satisfied that instead of stopping the construction, the person continues with the contravention, the Director or such authorized officer may himself take such measures, as may appear necessary, to give effect to the order and the cost of such measures shall if not paid on demand being made to him, be recoverable from such person as arrears of land revenue.

12.13 Section 15 bars the jurisdiction of the Civil Courts to entertain or decide any question relating to matters falling under the Act or the Rules made thereunder. Section 16 deals with the effect of other laws, and reads as under:-

“16. Effect of other laws.—*Notwithstanding anything contained in this Act, any permission already granted to set up a colony under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963, and the rules made thereunder, shall remain valid and be governed by the terms and conditions contained therein. No person shall be required to obtain a license if he had obtained permission under the said Act and the same still subsists.”*

12.14 Section 19 provides for the remedy of appeal.

IV. Article 243-W of the Constitution of India

12.15 Article 243-W inserted by the Constitution (74th Amendment) 1992, reads as under:-

“243W. Powers, authority and responsibilities of Municipalities, etc.

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow--

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to—

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.”

12.16 Entries I and II of the twelfth Schedule are urban planning including town planning & regulation of land-use and construction of buildings, respectively.

12.17 Having examined the statutory framework, we are of the considered view that the 1975 Act would apply on its own force, within the municipal limits. This is the decisive consideration, and it is one which the arguments for the added respondents does not meet. Section 1(2) of the 1975 Act extends the Act to all urban areas in the State. Section 2(o) defines an urban

area to mean, first and foremost, any area of land within the limits of a municipal area, and extends thereafter to a notified area, etc.

12.18 There is a sharp contrast with the 1963 Act, wherein a controlled area under Section 4 thereof, is declared outside the limits of a municipal town. An urban area under Section 2(o) of the 1975 Act begins with land within the limits of a municipal area. The 1975 Act was thus designed, from its commencement, to operate inside municipal limits. It is not an enactment which the extension of municipal limits could ever have displaced, for the simple reason that municipal limits were never its outer boundary. Once that is appreciated, the very premise of the argument of the added respondents collapses, since the same depends upon the proposition that the department's jurisdiction was territorial and once the land was drawn within the municipal limits, that stood transferred to the municipal authorities. Such proposition is true of the 1963 Act, however, the same does not hold good for the 1975 Act. The jurisdiction under the 1975 Act does not attach to land on account of it being outside a municipality. It attaches because the land forms part of a colony for which a license has been granted under Section 3. Municipalization neither creates that jurisdiction, nor extinguishes it. The license is the source, and it subsists.

12.19 Learned counsel for the added respondents have failed to dispute that the license, the approved layout, the zoning plan, and the development conditions, survive municipalization and continue to have binding force. However, what is argued by them is that the corporation would continue to follow them while exercising its own powers under the Municipal Acts. We are of the view that such argument cannot be countenanced, as the binding

conditions which no one may enforce, cannot be a condition at all. If the license survives, and if Section 3B forbids erection otherwise than in accordance with the approved plans and the conditions of that license, then Section 10, which is the enforcement provision attached to Section 3B, must survive with it. To hold otherwise is to leave the 1975 Act with a prohibition that is left redundant and otiose.

12.20 Having set out the scheme of sections 203-C and 203-G of the 1973 Act, and sections 346, 347, 348, and 350-D of the 1994 Act, we find that the said provisions speak of an area already declared as a controlled area by the DTCP under the Act of 1963; of plans prepared for such controlled areas; the powers and functions of the DTCP being performed under the 1963 Act; and of acts done under that Act. They say nothing whatsoever of a license granted under section 3 of the 1975 Act, of a layout plan approved thereunder, or of the obligations which that Act fastens upon a licensed colony.

12.21 We find that the arguments of the added respondents regarding transfer of powers to the Municipal Authorities, are bereft of any merit. We are of the view that had the legislature intended to transfer to the Municipal Authorities, the enforcement of the Act of 1975 in licensed colonies, nothing would have been easier than to say so. In absence thereof, the deeming provisions would have to be interpreted as a measure to resolve a specific and identifiable mischief, i.e. the engulfment by municipal limits of areas which the Act of 1963 required to be declared outside those limits. That mischief did not arise under the Act of 1975. The inclusion of Section 3B in the Act of 1975, vide the Haryana Act No. 11 of 2003 much after the coming into force of the Act of 1994, would clearly reflect the legislative intent that erection or re-

erection of buildings in a licensed colony, in conformity with the approved plans and as per restrictions and conditions contained in the license or specified by the Government or the DTCP, shall continue to be governed under the Act of 1975.

12.22 The added respondents have laid much emphasis on Article 243-W. Having examined the language employed therein, we are of the considered opinion that the same is an enabling clause. It does not obligate the State to legislate and does not envisage that existing laws relating to urban planning, regulation of land use, and construction of buildings would become non-operative, or that a vacuum would be created in the matter of their enforcement. We are fortified in taking such a view on the basis of the principle of law enunciated in *Shanti G. Patel* (supra). Article 243-W cannot in any event be invoked to read down a statute, whose vires are not under challenge.

12.23 The added respondents place reliance upon the provisions of Section 232(3) of the 1994 Act, to contend that since the legislature expressly made Section 230 to 232 inapplicable to the land governed by the 1975 Act, and made no comparable exclusion in Chapter XIV or Chapter XX, an intention must be inferred that those chapters do apply to such land to the exclusion of the 1975 Act. We are unable to accept the inference. A careful perusal of the provisions of the Section 232(3) would disclose that the legislature was alive to the interface between the two enactments, and that, where they met, it made the 1994 Act give way to the 1975 Act. That is a pointer in precisely the opposite direction to the one contended by the added respondents. At best, Section 232(3) shows that the corporation cannot sanction layout plans or the division

of plots in a licensed colony. It carries no implication that the corporation displaces the DTCP in the Enforcement of Section 3B.

12.24 We are equally unimpressed with the argument that the absence of an express ouster of the 1994 Act in the 1975 Act, would lead to an inference that the jurisdiction of the DTCP, stood transferred with the Director, Urban Local Bodies, under the 1994 Act. In our view, the 1975 Act contains no ouster, because none was required. Section 18 saves the powers of local authorities, while Section 16 preserves permissions granted under the 1963 Act.

12.25 Coming to the arguments of the added respondents regarding the absence of power for carrying out sealing, demolition, and any action regarding misuse of a building after raising of construction, the same appears attractive in the first blush. However, on deeper scrutiny of the provisions of section 10(3) of the 1975 Act, we find that the Director or any officer authorized by him is empowered to take 'such measures', as may appear necessary to give effect to an order passed under sub-section (2) for stopping further construction and for restoration of any building or land to its original state or to bring it in conformity with the provisions of the Act of 1975 or the Rules framed thereunder. The powers so vested, are required to be interpreted in the widest amplitude, so as to ensure that the authority required to carry out such functions, can effectively enforce the provisions of the 1975 Act and the conditions of the license. It is also necessary to take note of the undisputed factual position that the license conditions for the colonies in question, include the condition that the zoning/layout plan shall be adhered to. The onus to adhere to such obligation is not merely limited to the developer or colonizer, rather by virtue of Section 3B 'to any person', which shall include the plot

owners/occupiers. The records reveal large scale violations including commercial use of residential plots, in both the general and EWS categories, which according to the authorities are not in consonance with the approved plans and conditions of license. The argument regarding lack of jurisdiction in the case of 'misuse' is therefore fallacious and merits rejection. Equally without merit is the argument that in the absence of specific dates of the violations having been mentioned in the notices, the provisions of Section 3B of the 1975 Act, inserted in the year 2003, cannot be pressed upon. As observed hereinabove, the onus to repel the allegation of violations, is on the plot holder/occupier, besides the fact that any violation of the license conditions, would be in the nature of a continuing wrong and the competent authority would not be divested of its jurisdiction to initiate action against such violation.

12.26 All the parties before us, have invoked the Building Code of 2017. While the added respondents have pleaded that the Code creates no independent enforcement jurisdiction in the DTP(E), the State, petitioners and respondent No.13 have argued that no such jurisdiction is created in the municipal corporation either. It is argued that the Code is, by a deliberate design, authority-neutral. 'Competent authority' is defined as 'an officer/agency duly authorized', without specifying by what or by whom an 'Act' is defined as 'the respective act of competent authority'. Two features of the Code, are to be noticed. Code 1.2(1)(xxiv) defines 'colony' to mean a colony as defined in the Act of 1975. Code 6.3(2)(iii) provides that buildings shall not project beyond the building lines as shown in the zoning plan of the respective scheme, and that the setbacks tabulated in the Code apply only in case where the zoning plans are not prepared. The Code thus subordinates its own default norms to the zoning

plan wherever a zoning plan exists. In a colony licensed under Section 3 of the 1975 Act, a zoning plan is always prepared and is approved by the Director, as an incident of the license. The argument that the added respondents gain nothing from the objection, the norms being identical under either regime, is therefore correct so far as the Code is concerned, however, is incorrect so far as the zoning plan is concerned. Under either regime, the Code applies, but the zoning plan which the Code makes paramount, is a creature of the license. That strengthens the case for the jurisdiction of the licensing authority.

12.27 We also find force in the arguments raised by Mr. Rai, that a licensed colony is a composite scheme. If each plot were to be treated for building purposes as a free standing parcel governed only by the Act of 1994, the integrity of that scheme would be at the mercy of the individual plot holder, and the rights of other allottees in common areas and facilities would be without protection.

12.28 Adverting to the authorities cited before us, ***Rajat Kuchhal*** (*supra*) involved a plot situated in DLF Qutab Enclave, Phase-IV, Gurgaon, which was admittedly a colony set up after obtaining a license under the Act of 1975, which came within the limits of the Municipal Corporation, Gurgaon, by the notification dated 02.06.2008. However, three things persuade us that ***Rajat Kuchhal*** (*supra*) does not decide the question before us.

12.29 Firstly, the notice impugned therein was issued under Section 12(2) of the Act of 1963, and the challenge was to an order passed by the DTP (Enforcement), ‘exercising the powers of the DTCP, Haryana under Sections 9 and 12 of the 1963 Act’. Section 3B of the Act of 1975 is nowhere considered in the judgment. Secondly, the operative propositions in which the Bench

summarized its conclusions are all, in terms, propositions about the Act of 1963. Each of the conclusions is with regard to compliance of the development plans and provisions of the 1963 Act, or for compliance of the development plans published under Sections 4 and 5 of the said Act. What the Bench was considering was the enforcement of a development plan published under the Act of 1963 as between the DTCP, the Director, Urban Local Bodies, and the Commissioner. It was not dealing with the enforcement of a license granted under Section 3 of the Act of 1975. Thirdly, the relief granted, would reaffirm, such distinction. The Bench quashed the orders passed under the 1963 Act and gave the petitioners therein liberty to conform to the building regulations as per the building plans, failing which “the authorities as discussed above” would be at liberty to proceed. Had the Bench intended to hold that a license colony within a Corporation is beyond the reach of the Act of 1975 altogether, the qualification would have been unnecessary and the liberty reserved would have been differently framed.

12.30 We are fortified in this reading by the observations made in ***Exotica Condominium Owners Association*** (*supra*), in which the identical argument founded on ***Rajat Kuchhal*** (*supra*) was advanced and rejected precisely on this ground and the Special Leave Petition filed against the said decision was dismissed.

12.31 Coming to the judgment in the case of ***Premier Spinning Mills*** (*supra*), in the facts involved therein, the land was not in a colony licensed under the Act of 1975. Paragraph Nos. 20 and 21, upon which reliance was placed are a summary of Sections 203-C and 203-G upon powers exercised ‘under the scheduled roads Act’. They say nothing of the Act of 1975.

12.32 More significantly, the actual ratio of the case lies elsewhere. The order was struck down not because municipalization has restricted the jurisdiction of the department, but because the officer who passed it, i.e. the Assistant Town Planner, was not a notified delegate. Had the wider proposition contended to be the ratio, the Court could not have done what it did in paragraph No. 24, namely, remit the matter ‘to the District Town Planner, Karnal for an adjudication afresh, in accordance with law’. The remittal to the District Town Planner is unintelligible on the hypothesis that the said authority had lost jurisdiction over land within municipal limits.

12.33 The added respondents have strongly relied upon the decision of a Co-ordinate Bench in the case of ***Krishna Industries*** (*supra*), and have contended that the issue involved in the present *lis*, stands squarely covered, especially once the Special Leave Petition against the decision stood dismissed on 19.12.2024. However, having examined the observations made in the said matter, we are of the view that while making a reference to the specific provision of the Act of 1977, it was held that no such saving is provided under the Act of 1994 and that ‘once the licensed colony is transferred to the municipal corporation, then all aspects of the transferred colony are to be exercised under the 1994 Act’. The condition is transfer. It is common ground in the present case, and is indeed borne out from the material on record, that DLF Phases I to V have not been transferred to the Municipal Corporation, Gurugram. The premise upon which the observation rests is therefore absent in the facts of the instant case. Secondly, the colony in the case of ***Krishna Industries*** (*supra*) was not licensed under the Act of 1975. The judgment records that the layout plan of DLF Industrial Area was sanctioned on

11.09.1973, when the Act of 1975 had not been enacted, and that the permission for laying out the colony was accordingly granted under the Act of 1963. We therefore, have absolute clarity that Section 3B of the Act of 1975, could have no application in the facts involved in the said case and the question that we are considering did not arise.

12.34 Thirdly, and more significantly, the Division Bench itself applied the Act of 1975 in favour of the petitioner in ***Krishna Industries*** (*supra*), holding that the case fell within the domain of ‘undue hardship as mentioned in Section 23 of that Act’ and that the respondent-authorities ought to have taken guidance from it. The observation relied upon, in our considered view, can best be understood as confined to the limited aspect that was brought before the Bench, namely, change of land use in a colony that had actually been transferred.

12.35 The matter requires to be examined from another angle. The substantive issue raised in the present petitions, which have been treated as Public Interest Litigation, is regards the large scale unauthorized or illegal constructions and commercial use of residential property, contrary to the norms, rules and regulations. The Hon’ble Supreme Court vide order dated 28.10.2025, specifically recorded that the same cannot be protected. Liberty was granted to the appellants therein or anyone else who may be affected, to bring to the notice of the Court or the authorities that the violations as alleged are not justified and its adjudication by the Court or by the authorities is necessitated realizing the importance of ensuring action against any unauthorized or illegal constructions, which has remained pending since a long time. This Court was directed to decide the matter at the earliest, after affording opportunity to all concerned,

and as-far-as possible within a period of six months. As noticed hereinabove, various orders have been passed by this Court, including the order dated 26.11.2025, directing the DTCP (Enforcement) to consider and decide the objections of the affected parties. Directions were also passed that all details of the survey/charts placed on record, depicting the individual violations, be uploaded on the website of the department and liberty was granted to the affected parties to file their respective affidavits, regarding objections qua the same. We therefore, find some merit in the argument raised by the learned counsel for the petitioners that once the survey has been conducted, and due opportunity is being provided to each affected person to raise objection regarding the correctness or otherwise of the alleged breach of building norms, no real prejudice would be caused to any person, since the principles of natural justice stand duly complied with. On the contrary, to start the process *de novo* on a technical ground of jurisdiction, rather than examining the substantive issue, would defeat the very purpose, for which the Hon'ble Supreme Court had directed that the matter be decided within six months. The argument of the added respondents that the MCG had itself issued notices, in certain cases of default and certain suits stand decreed, would not come to their aid, once this Court is seized of the larger issue pertaining to unauthorized and illegal constructions & commercial use of residential property in the present petitions filed in public interest.

12.36 Be that as it may, once we are deciding the issue of jurisdiction, the necessary consequences shall follow.

12.37 For the reasons recorded above, we answer the preliminary issue as follows :-

- (i) The Haryana Development and Regulation of Urban Areas Act, 1975 applies, by force of Section 1 (2) read with Section 2 (o) to all urban Areas in the State of Haryana, including the land falling within the limits of a municipal area. The inclusion of a licensed colony within the limits of the Municipal Corporation, Gurugram does not extinguish the jurisdiction conferred by the said Act.
- (ii) The jurisdiction of the Director, Town and Country Planning and of the officer authorized by him under Section 10 of the Act of 1975, derives from the license granted under Section 3 and from Section 3B, and not from the situation of the land outside municipal limits. It is therefore, unaffected by municipalization.
- (iii) Sections 203-C and 203-G of the Haryana Municipal Act, 1973 and Sections 346 to 350D of the Haryana Municipal Corporation Act, 1994 transfer to the municipal authorities the powers formerly exercised under the Act of 1963 in respect of controlled areas. They do not transfer, and do not touch, the powers conferred by the Act of 1975 in respect of licensed colonies.
- (iv) Article 243-W of the Constitution is an enabling provision and does not by itself render the Act of 1975 inoperative.
- (v) The preliminary objection regarding the jurisdiction of the District Town Planner (Enforcement), Gurugram, is accordingly rejected.

13. List these matters for further consideration on 24.09.2026.
14. A photocopy of this order be placed on files of the connected cases.

(ASHWANI KUMAR MISHRA)
CHIEF JUSTICE

(ROHIT KAPOOR)
JUDGE

07.09.2026

Mohit goyal/kavneet singh