

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

C.W.P. No.1703 of 2001
Date of decision: 21.01.2015

Bazaz Orient Teppiche

-----**Petitioner (s)**

V/s

HUDA, Panchkula & another

-----**Respondent(s)**

**CORAM:- HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA**

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Rajiv Atma Ram, Sr. Advocate with
Mr. Sube Sharma, Advocate
for the petitioner.

None for the respondents.

HARI PAL VERMA, J.

Through the instant writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a direction for quashing of order dated 17.12.1999 (Annexure P4), vide which, the industrial site No.59, Sector 29, Urban Estate, HUDA, Panipat allotted to the petitioner has been ordered to be resumed. A further prayer has been made for quashing the order

dated 17.10.2000 (Annexure P7), whereby appeal against the order dated 17.12.1999 has been dismissed.

Briefly stated, the petitioner, who is claiming to be a Government recognized Export House, has filed the present writ petition through its partner Shri Maharaj K. Bhat. The plot No.59, Sector 29, Urban Estate, Panipat measuring 1025 square yards was originally allotted to M/s Glory Knitwares and thereafter, this plot was re-allotted to the petitioner vide re-allotment letter dated 8.3.1995 (Annexure P2) on the laid down terms and conditions of the allotment letter and the provisions of the Haryana Urban Development Authority Act, 1977 (for short, "the HUDA Act") and the instructions/guidelines and Rules and Regulations framed thereunder, as amended from time to time. Pursuant to re-allotment of the plot, the possession of the plot was handed over to the petitioner on 6.1.1998 (Annexure P3). As per the allotment letter, the allottee was to complete the construction within two years from the date of offer of possession, however, due to non-construction of the building, the said plot was resumed vide order dated 17.12.1999 (Annexure P4). While ordering resumption of the plot in question, respondent no.2 has also ordered forfeiture of 10% of the total cost of the plot as per the industrial policy.

The order of resumption (Annexure P4) was made subject matter of challenge by way of appeal. But the said appeal was dismissed vide order dated 17.10.2000 with the observations that the petitioner has failed to complete the construction despite having been granted extension upto 7.3.1998 and as the petitioner has not obtained the occupation certificate of the building constructed by him and the industrial unit has not been started by the petitioner.

It is against the order of resumption dated 17.12.1999 (Annexure P4) and order passed in appeal dated 17.10.2000 (Annexure P7) the petitioner has filed the present writ petition.

On notice having been issued to the respondents, written statement has been filed on behalf of respondent no.2, wherein it has been submitted that the writ petition is not maintainable having not been filed by a competent person. It has been submitted that the plot in question was originally allotted to M/s Galory Knitting Industry, 41, Sunder Nagar, Ludhiana vide allotment letter dated 10.4.1990 and possession of the said plot was offered vide letter dated 3.2.1992. Thereafter, the plot in question was re-allotted in the name of the petitioner i.e. M/s Bajaj Orient Teppiche through Sh. Kuldeep Raj Wattal whereas the present writ petition has been filed by the petitioner i.e.

M/s Bajaj Orient Teppiche through Shri Maharaj K. Bhat and as such, the instant writ petition has not been filed by a competent person. It has been further submitted that as per condition no.18 of the allotment letter dated 10.4.1990 (Annexure R-1), the allottee was required to complete the construction within the stipulated period of two years as well as within the extended period. On failure to complete the construction within the stipulated period as well as within the extended period, notice under Section 17(3) of the HUDA Act was issued to the petitioner on 1.10.1999 and the petitioner was requested to appear before respondent no.2 on 18.10.1999, but neither the petitioner nor any representative of the petitioner appeared before respondent no.2 in response to the said notices and as such, the plot in question was resumed vide order dated 17.12.1999 as per the terms and conditions of the allotment letter. Since the petitioner has not completed the construction within two years, the order of resumption is fully justified.

We have heard learned counsel for the petitioner.

Learned counsel for the petitioner has argued that the petitioner has completed the construction during the pendency of the appeal pending before respondent no.1 and in support of this assertion, he has drawn out attention to the photographs (Annexure P1), where a

constructed building is shown. He has further argued that the petitioner was offered possession only on 6.1.1998 and therefore, the period for completion of construction should be reckoned from the date of possession offered after the re-allotment of the plot, whereas the respondent-authorities are counting this two years period from the date of allotment of the plot made to the original allottee.

When the matter was taken up for hearing on 10.9.2013, learned counsel for the respondents had taken time to seek instructions in the matter and to submit the status report with regard to construction raised by the petitioner over the plot in question. While adjourning the case, the Estate Officer, HUDA, Panipat was also directed to remain present in Court along with the record pertaining to the case. On 3.10.2013, Estate Officer was present in Court along with the record but the status report with regard to construction raised by the petitioner was not available and as such, the case was adjourned to 12.11.2013 with a direction that the status report be submitted by that time.

Even today, when the case was taken up for hearing, neither anybody has put in appearance on behalf of the respondent-HUDA nor the required status report in terms of orders dated 10.9.2013 and 3.10.2013 has been produced. In absence of any such report, of course with

the assistance of photographs (Annexure P1), it can safely be believed that the petitioner has completed the construction. Moreover, process of resumption has to be invoked sparingly, rather it should be resorted to as a last resort, as held by the Hon'ble Apex Court in **Teri Oat Estates (P) Ltd. Vs. U.T. Chandigarh & others** (2004) 2 SCC 130.

Since the petitioner has raised construction over the plot in question and no counter status report has been furnished by the respondents controverting this fact, the present writ petition is allowed. The order of resumption dated 17.12.1999 (Annexure P4) is quashed and the plot in question is ordered to be restored to the petitioner. Resultantly, the order dated 17.10.2000 (Annexure P7), passed in appeal, is also quashed.

In view of the above, the writ petition is allowed.

(**HEMANT GUPTA**)
JUDGE

(**HARI PAL VERMA**)
JUDGE

January 21, 2015
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