

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.17846 of 2012 (O&M)

Date of decision:17.11.2015

Vinod Chander Khera

... Petitioner

vs.

U.T. Chandigarh & others

... Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Paras Money Goyal, Advocate for the petitioner.

Mr. Vikram Anand, Advocate for U.T. Chandigarh.

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S.J. VAZIFDAR, ACTING CHIEF JUSTICE.

The petitioner has sought a writ of certiorari to quash an order dated 05.10.2010 passed by respondent No.4/The Assistant Estate Officer exercising the power of Chief Administrator of the Union Territory, Chandigarh directing the removal of alleged unauthorized construction. The petitioner has also sought a writ of certiorari to quash the subsequent proceedings including orders dated 21.08.2012 and 31.08.2012 passed by respondent No.2/The Estate Officer-cum-District Magistrate by which the order dated 05.10.2010 is sought to be implemented.

2. The petitioner claims to have acquired a 75% ownership right in respect of the premises, namely, a shop-cum-office. The petitioner filed a suit against the original owner in respect thereof. The petitioner's case is that a decree has been passed in his favour pursuant to which a sale deed has been executed transferring the 75% ownership right in respect of the premises to him. The same has also been registered with the Sub Registrar, Chandigarh.

3. The petitioner applied for having his name entered as a 75% owner of the premises in the records of respondent No.1. Respondent No.1

is yet to decide that application. The petitioner's apprehension is that the application would be rejected on the ground that there are certain alleged violations of the building norms. The petitioner contends that the alleged violations are in any event compoundable. Respondent No.1 does not deny the same in view of a report dated 23.08.2015 made by S.D.O. (Buildings). We do not, however, wish to express any view in that regard at this stage.

4. The petitioner finds himself in a peculiar situation: on the one hand, his application for having his name transferred in the records of respondent No.1 as a 75% owner may not be entertained on the ground that there are alleged violations and on the other, his application for compounding the same and/or for removal thereof, if necessary, as well for sanctioning the building plans may not be considered as his name has not been transferred as a 75% owner with respondent No.1. The petitioner ought not to fall between two stools.

5. The ends of justice would be served by directing respondent No.4 to consider the petitioner's application for having his name transferred as a 75% owner in the records of respondent No.1. The application shall not be rejected only on the ground of the alleged violations. In the event of the application for transfer being granted, respondent No.3/S.D.O. shall consider the petitioner's application for compounding the violations in accordance with law. In the event of respondent No.3 despite the said report coming to the conclusion that the violations are not compoundable, respondent No.3 shall consider whether or not to permit the petitioner to remove/rectify the same. Lastly, in the event of the application being granted and in the event of the violations being held to be compoundable and/or capable of being rectified and in the event of the petitioner's

compounding the same and/or rectifying the same as the case may be, the petitioner's application for sanctioning the building plans shall be considered in accordance with law.

The Writ Petition is, accordingly, disposed of.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

17.11.2015

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