

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17350 of 2015

Date of Decision:- 19.11.2015.

M/s Bindlish Enterprises

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE HARI PAL VERMA**

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

Present: Mr. Rajesh Narang, and
Mr. Rajiv Malhotra, Advocates
for the petitioner.

Mr. Rajesh Bhardwaj, Additional A.G. Punjab.

Mr. Naresh Prabhakar, Advocate for
respondent Nos.2 and 3.

SURYA KANT, J. (ORAL)

1.) The petitioner was allotted industrial plot No.A-19, Industrial Area, Phase VI in SAS Nagar, Mohali. The above stated plot was allotted to set up a small scale industry to manufacture Rail coach parts. It appears that in the year 2002, Kapurthala Rail Coach Factory curtailed outsourcing of the parts and started its own manufacturing unit due to which the petitioner- industry became unviable and suffered heavy losses.

2.) State of Punjab introduced Industrial Policy, 2005 whereunder Change of Land Use was permissible subject to the terms and conditions contained therein. The petitioner applied for 'Change of Land Use' (CLU) to utilize its industrial plot for commercial purposes, namely, as a 'marriage palace' or 'banquet hall'. However, without awaiting for such CLU, the petitioner started using the industrial plot for the aforementioned commercial purpose. As it amounted to misuse of the industrial plot, the respondent-authorities resumed the same vide order dated 22.8.2008 which was later on set aside by the Appellate Authority. The petitioner was again found to be misusing the industrial plot by running a marriage palace in the name of Celebration Banquet Marriage Palace, hence a fresh resumption order was passed on 31.8.2012. The appeal etc. preferred against the same have been rejected, giving rise to the instant writ petition.

3.) The Estate Officer GMADA has filed reply/affidavit to the effect that since the petitioner was misusing the industrial plot without grant of CLU, the authorities were left with no option but to resume the site.

4.) On the other hand, learned counsel for the petitioner submits that since the petitioner had applied for the 'Change of Land Use' many years back, the authorities cannot keep such application pending perpetually. The petitioner also alleges discrimination as CLU has been granted to similarly placed adjoining industries.

5.) Heard learned counsel for the parties. Records also perused.

6.) In view of the principles laid down by a Full Bench of this Court in **Dheera Singh Vs. U.T. Chandigarh (2013-1) 169 PLR 1**, there is no gainsaying that resumption of a site has to be the last resort and only in a case of habitual violator(s). The petitioner may not be categorized as a chronic defaulter for the reason that firstly it applied for the grant of CLU and expressed its willingness to deposit the requisite charges and thereafter only it started misusing the site, may be under an erroneous impression as if mere submission of the application for CLU, amounted to implied permission. Taking into consideration the totality of circumstances, we allow the writ petition in part subject to the following terms and conditions:-

(a) The resumption order dated 31.8.2012 as well as the appellate orders dated 5.6.2013 and 19.2.2015 are set aside. However, the petitioner is restrained from misusing the site as a marriage palace and/or for any other commercial activity till the requisite permission is granted by the Competent Authority.

(b) The Chief Administrator GMADA is directed to take up the application moved by the petitioner for grant of CLU and take a decision in accordance with the Industrial Policy, 2005 and/or subsequent policies within a period of three months from the date of deposit of requisite charges

by the petitioner.

(c) The petitioner shall be required to deposit all the requisite charges in accordance with the above stated policy within a period of two weeks from the date of receipt of certified copy of this order.

(d) The Competent Authority shall thereafter be at liberty to levy any penalty on the petitioner for the misuse of industrial site in accordance with the Government policy/Act/Rules. Such penalty shall be deposited by the petitioner without prejudice to its right to appeal and/or any other remedy as may be available under the Statute/Rules/Regulations.

**(SURYA KANT)
JUDGE**

**(HARI PAL VERMA)
JUDGE**

November 19, 2015.

sandeep sethi