

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 25918 of 2012(O&M)
Date of decision : 19.03.2015

Shashi Bhushan Gupta

..... Petitioner

versus

Municipal Corporation and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Keshav Partap Singh, Advocate for the petitioner.

Ms.Amarjit Kaur Khurana, Addl.AG, Punjab.

Mr.Vineet Singla, Advocate for respondents No. 1 and 3.

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?

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the order whereby information one one point has been declined to him. The genesis of the dispute is a commercial building which was built on plot No. 28/29, Ajit Nagar, Patiala.

The basic allegation of the petitioner is that this building has been illegally built and respondent No.1 has given undue benefits to the owner thereof. It is for this purpose that the petitioner had sought information. The petitioner had sought information on 12 points as follows:-

1. Copy of site plan of plot No. 28 and 29, Ajit Nagar, Patiala and copy of the ownership.
2. Copy of building plan as sanctioned by Municipal Corporation

with respect to building on plot No. 28 and 29, Ajit Nagar, Patiala.

3. Information regarding passing of the building as commercial or residential.
4. The order by which said plots have been allowed to be constructed as commercial building in the residential area.
5. Width of road on which the said plot No. 28 and 29, Ajit Nagar, Patiala are abutting. Can the commercial building be constructed on road having width of 25 feet only.
6. Copy of rules regulations and byelaws for commercial building which are not Gazette notified.
7. Details of open space and parking area required to be left in the plot No. 28 & 29 Ajit Nagar, Patiala against the building constructed on said plots.
8. Orders under which this building has been sanctioned because as per policy for change of land use from residential to commercial memo No.4/16/94-ILCIII/8763 dated 23.7.94 para 3(ii) only single depth plots can be commercialized but in this case two different plots have been combined for constructing one single building.
9. Copy of building byelaws with respect to commercial building sanctioned in residential area.
10. Details of floor area ratio in respect of building on plot no 28 & 29 Ajit Nagar, Patiala.
11. Information as to finally passing of the above building (plot no. 28 & 29, Ajit Nagar, Patiala) along with details of objections raised for unauthorised/illegal construction on said plot No. 28 & 29, Ajit Nagar, Patiala and basis of compounding if any.
12. Copy of compounding order and amount of compounding fee if any.

Information on all the points except point No.2 had been given and with regard to point No.2 it had been mentioned that the building plan is the intellectual property of the architect/owner. The case of the petitioner is that the intellectual property right of the architect/owner will have to subserve the larger public interest which the petitioner is espousing because

once the petitioner gets the copy of the sanctioned plan he would be able to see what undue benefit had been granted to the owner.

In my opinion the extent of benefits which may have been granted to the owner can be very well gauged from the reply given to the other points. If excess FAR has been allowed that information is there; if some uncompoundable deviations have been compounded that information is also there; if parking norms have not been met that information is also there. Had it been a case where the requisite information had not been given and everything had to be seen from the building plan it may have been argued that the intellectual property right would be subservient to the larger public interest but in the present case learned counsel has not been able to point out as to what further information will be gleaned from the building plan which can help the public cause which the petitioner is stated to be espousing.

In the circumstances no fault can be found with the impugned order.

Petition is dismissed.

(AJAY TEWARI)
JUDGE

March 19, 2015
sunita