

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 26103 of 2014

Date of Decision: 9.4.2015

Sukhdev

....Petitioner.

Versus

The Adviser to the Administration, UT, Chandigarh and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE REKHA MITTAL.**

PRESENT: Mr. Shekhar Choudhary, Advocate for
Mr. Naresh Kumar, Advocate for the petitioner.

Mr. Deepak Sharma, Advocate for the respondents.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the orders dated 17.8.2000 (Annexure P-2), dated 16.5.2008 (Annexure P-4), dated 6.7.2010 (Annexure P-5), dated 26.3.2012 (Annexure P-6) and dated 11.6.2014 (Annexure P-7) passed by the respondents pertaining to dwelling unit No. 3155, Maloya, UT, Chandigarh.

2. Briefly stated, the facts necessary for adjudication of the instant petition as narrated therein may be noticed. The petitioner was allotted dwelling unit No. 3155 under EWS Category in Maloya, UT, Chandigarh vide allotment letter dated 22.11.1988 (Annexure P-1). Some need based changes were made in the said unit whereupon, respondent No.4 issued a show cause notice dated 18.1.2000 to the petitioner for the violation of running the scooter shop in the dwelling unit

in illegal construction extended on the Government land. On receipt of the said notice dated 18.1.2000, the petitioner removed the violation and closed the business. However, respondent No.4 vide order dated 17.8.2000 (Annexure P-2) cancelled the allotment of the house in question. After the cancellation of the dwelling unit nothing was done by the respondents, but thereafter, notice dated 19.7.2006 under Section 51 of the Haryana Housing Board Act, 1971 (as extended to Chandigarh) [in short "the Act"] was issued for eviction of the petitioner from the said dwelling unit. The petitioner filed an appeal under Section 72-A(i)(b) of the Act before respondent No.3 against the order dated 17.8.2000 which was dismissed on 16.5.2008 (Annexure P-4). Against the order dated 16.5.2008 (Annexure P-4), passed by respondent No.3, the petitioner filed an appeal to the Chandigarh Housing Board who vide order dated 6.7.2010 (Annexure P-5) also dismissed the appeal. Thereafter, the petitioner challenged the said order by way of Revision Petition No.50 of 2011 before respondent No.1 who vide order dated 26.3.2012 (Annexure P-6) dismissed the revision petition. Thereafter, respondent No.5 vide notice dated 11.6.2014 (Annexure P-7) ordered the eviction of the petitioner from the dwelling unit in question. The petitioner challenged the said notice dated 11.6.2014 (Annexure P-7) before the District and Sessions Judge, Chandigarh by way of an appeal under Section 54 of the Act. The Additional District Judge, Chandigarh stayed the operation of the order dated 11.6.2014 (Annexure P-7). Hence, the present writ petition challenging the resumption and eviction proceedings initiated by the respondents.

3. We have heard learned counsel for the parties.

4. Learned counsel for the respondents has submitted a

revised survey report carried on by the Sub Divisional Engineer-III (Enforcement) on 8.4.2015, wherein, it has been stated as under:-

- “(i) Cycle shop & scooter shop is running in the dwelling unit (closed).
- (ii) Fully covered at ground and first floor not constructed as per Drg. (Dismantled)
- (iii) Bath Room, Toilet Stair have been dismantled at ground floor on Govt. land (Dismantled)
- (iv) R.C.C. Chajja and stair at first floor have been dismantled.
- (v) Brick work has been constructed at 2nd floor (Dismantled).
- (vi) Room has been constructed at ground on Road side Birm (Dismantled).”

5. A perusal of the above would show that the violations by which resumption and eviction proceedings were initiated have either been closed or dismantled by the petitioner. In such circumstances, we are of the opinion that the ends of justice would be met if the unit is restored to the petitioner. Ordered accordingly. However, it is clarified that in future if any unauthorized construction or misuse is made by the petitioner, he shall not be entitled to such concession of restoration.

6. With the above observations, the writ petition stands disposed of accordingly.

(AJAY KUMAR MITTAL)
JUDGE

April 9, 2015
gbs

(REKHA MITTAL)
JUDGE