

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5157 of 2015

Date of Decision: 20.3.2015

Dinesh Mago

....Petitioner.

Versus

Chandigarh Administration and others

...Respondents.

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

PRESENT: Mr. Rakesh Bhatia, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of Mandamus directing respondent No.2 to consider his representation dated 1.12.2014 (Annexure P-7) qua transfer of 30% share in respect of House No. 414, Sector 20-A, Chandigarh in his favour on the basis of the Will dated 1.8.2008 executed by his mother who died intestate on 10.8.2008 leaving behind two sons and one daughter, i.e. the petitioner and respondents No.3 and 4.

2. As per the averments made in the petition, the petitioner applied for transfer of his share in House No. 414, Sector 20-A, Chandigarh to respondent No.2 on the basis of Will dated 1.8.2008 (Annexure P-1). Respondent No.2 vide letter dated 27.12.2011 (Annexure P-3) asked the petitioner to complete the formalities and apply on the fresh prescribed application. The mother of the petitioner vide letter, Annexure P-4, wrote to respondent No.2 that the property be not transferred as the Barsati portion was in occupation of Rakesh Mago, the younger brother of the petitioner and they both have some dispute with each other. The petitioner was in occupation of entire first

floor, i.e. 30% share in the said house. The petitioner vide letter dated 16.5.2014 (Annexure P-5) requested respondent No.2 for transfer of his share in the house in question. The petitioner filed CWP No. 18741 of 2014 in this Court which was dismissed as withdrawn with liberty to avail appropriate remedy. According to the petitioner, this Court in a similar matter vide order dated 3.10.2012 (Annexure P-6) passed in CWP No. 16167 of 2012 directed respondent No.2 to pass appropriate orders on the application for change of ownership qua the petitioner therein. The petitioner submitted a representation dated 1.12.2014 (Annexure P-7) to respondent No.2 for transfer of House No.414, Sector 20-A, Chandigarh, qua 30% share. However, no response has so far been received thereon. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved a representation dated 1.12.2014 (Annexure P-7) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the representation dated 1.12.2014 (Annexure P-7), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

March 20, 2015
gbs

(REKHA MITTAL)
JUDGE