

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-7640-2014

Date of decision:- 19.11.2015

Mrs. Qaisar Jahan

...Petitioner

Versus

Financial Commissioner-cum-Principal Secretary to Government
of Haryana, Town and Country Planning Department, Chandigarh
and others.

...Respondents

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

Present: Mr. Kul Bhushan Sharma, Advocate,
for the petitioner.

Mr. Rahul Dev Singh, Deputy Advocate General, Haryana.

Mr. P.S. Chauhan, Advocate,
for respondents No. 2 to 4 – HUDA.

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S.J. VAZIFDAR, A.C.J. (ORAL)

On 31.08.2000, the petitioner was allotted an industrial plot
admeasuring 250 sq yards. The payment in respect thereof was made. On
08.07.2003, a possession certificate was issued. The petitioner, however,
states that in fact physical possession of the plot was not handed over to her.

2. Whether physical possession of the plot was handed over or not is
one of the most important issues of fact to be decided in this case. On the
one hand, by a letter dated 02.08.2005, the petitioner admitted having got
possession of the plot by a memo dated 08.07.2003 and on the other in reply
to the show cause notice the petitioner stated that she was unable to put up
the construction within the period stipulated on account of an encroachment,
namely, a tea stall and mazar thereon. The petitioner relies upon the minutes
of the proceedings before the revisional authority dated 17.04.2007 which
record that there was a mazar and tea stall which were removed later on and

that the report was available on the noting of the plot file. The status report, however, does not state when the mazar and tea stall were put up, namely, whether they were put up when possession was allegedly given on 08.07.2003 or whether they were put up thereafter.

3. Learned counsel appearing on behalf of respondents No. 2 to 4, however, states that there is no such noting.

4. The authorities under the Act have not considered this important issue, namely, regarding the existence of the encroachment on the plot. The entire case would depend upon the finding in this regard.

5. In these circumstances, the impugned orders are set aside and the matter is remanded to the revisional authority for a fresh consideration of the matter. It will be open to the revisional authority to remand the matter further, if necessary.

6. The writ petition is accordingly disposed of.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

19.11.2015

Amodh