

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

CWP No.7964 of 2014

Date of decision:19.08.2015

Devinder Kumar & others

... Petitioners

Vs.

U.T. Administration & others

... Respondents

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

HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Rahul Gautam, Advocate for the petitioners.

Mr. Shekhar Verma, APP, UT, Chandigarh.

Mr. Sanjiv Ghai, Advocate
for respondent No.4-MC, Chandigarh.

...

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

Petitioners have challenged the fixation of development charges at the rate of Rs.800/- per square yard in respect of their properties which were released from acquisition under Section 48 of the Land Acquisition Act.

2. The properties of the petitioners were acquired in the year 1993. The said acquisition was quashed in the writ petitions filed by various parties in the year 1997. Vide order dated 31.01.2003, the order quashing the acquisition was reviewed. The acquisition therefore stood confirmed. An award was made on 05.03.2003.

3. Ultimately by a notification dated 09.01.2004, the land of

various land owners including the petitioners was released from acquisition. One of the conditions was that each land owner would pay the development charges at the rate of Rs.800/- per square yard on land and structure under release. The Notification expressly stated that development charges would be payable in four annual equated installments without interest. It is further provided that in case of delayed payment, interest at the rate of 20% per annum compounded annually would be payable.

4. Thus the land was released from acquisition subject to the condition of payment of such development charges.

5. We see no reasons to review or to set aside the rate of Rs.800/- per square yard as development charges. Firstly, it is for the authorities concerned to determine the charges. Secondly, in the present case the land was released from acquisition on the said condition. If the petitioners were dissatisfied with the rate they ought to have challenged the release order. In fact the land was released from acquisition upon the representation of the various land owners including the petitioners. It is too late now for them to challenge the rate.

6. It appears that the Corporation/respondent No.4 was inclined to take a sympathetic view in the matter. In the year 2010, a reference was made to the Administration of UT, Chandigarh which did not accept the same. The Corporation passed another resolution to the similar effect on 29.02.2012. As the administration did not respond to the same, the petitioners filed a petition being CWP No.15818 of

2013 which was disposed of vide order and judgment dated 25.07.2013 directing the Chandigarh Administration to take a decision within two months. The Chandigarh Administration however vide decision dated 15.01.2014 rejected the representation.

7. We do not find any reasons for interference in the matter. It is noted that various land owners have paid the development charges.

8. In the alternative the petitioners have sought an order directing the respondents to take a lenient view insofar as the interest/penalty at the rate of 20% per annum compounded is concerned only .

9. It is difficult for us to decide this issue in this writ petition. Further facts and evidence in this regard would be necessary. For instance some of the petitioners state that they had in fact taken out demand drafts for the payment of development charges for the subsequent installments but that the Chandigarh Administration did not accept the same on the ground that by then the area fell within the jurisdiction of the Municipal Corporation, Chandigarh. This is a fact which would be relevant while considering the application for waiving/reducing the interest. The respondents however deny the petitioners contention that between the years 2006 and 2009, the respondents did not do anything in the matter. Therefore notices were issued demanding payment of further installments.

10. The writ Petition is disposed by refusing the prayer for reduction or waiver of the rate of development charges. However, the

petitioners are at liberty to apply for reduction or waiver of the rate of interest/penalty. The authority concerned will decide each application separately as the facts and circumstances would be different in each case. All the contentions would be kept open including as to whether the rate of 20% per annum compounded quarterly constitutes a penalty or not.

However, this indulgence regarding the interest is subject to the petitioners depositing the principal amount by 30.11.2015.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

19.08.2015

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NOTE: *Whether to be referred to the Reporters?* *No*