

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.966 of 2015 (O&M)
Date of decision:21.12.2015

M/s Span Industries

... Petitioner

vs.

State of Haryana & others

... Respondents

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

Present: Mr. I.S. Saggu, Advocate for the petitioner.
Mr. Deepak Balyan, Additional Advocate General, Haryana.
Mr. Jagdish Manchanda, Advocate for HUDA.

...

S.J. VAZIFDAR, ACTING CHIEF JUSTICE.

The petitioner has challenged the respondents order dated 02.09.2014 demanding an amount of Rs.18,64,692/- towards extension fee. There is no challenge to the demand of Rs.1,25,301/- towards increased area cost.

2. The petitioner was allotted a plot by a letter of allotment dated 30.01.1997. As per the terms of the letter of allotment, the petitioner was to make the payment and complete the construction within a period of three years. The respondents had resumed the plot by an order dated 25.11.2008 on the ground that the construction had not been completed within the stipulated period. The petitioner challenged this in an appeal before the Chief Administrator. The Chief Administrator by an order dated 28.01.2011 noted that the appellant had paid the entire construction fee for the allotment along with extension fee of Rs.1,82,700/-. He infact noted that the petitioner had paid an amount of Rs.616/- in excess. It is important to note that the Chief Administrator after perusing the plot file held that the petitioner had repeatedly applies for delivery of possession but the respondents instead of

delivering the possession of the plot issued further notices. The order in these circumstances concluded that in the absence of delivering the possession of the plot, it was not possible for the petitioner to raise the construction. It was also held that the shortcoming was on the part of the respondents. The Appeal was, therefore, allowed. The order of resumption was set aside and the respondents were directed to hand over possession of the plot to the petitioner subject to the condition that the appellant would apply for the completion certificate after raising the construction on the plot within a period of six months from the issue of the no dues certificate by the respondents.

3. Despite the said order and request for the same, the respondents have not issued no due certificate till date. The petitioner addressed a reminder in this regard immediately. After the order of the Appellate Authority, the petitioner by a letter dated 03.01.2012 requested the respondents to issue the no due certificate and mentioned that the same was required for processing the approval of the building plans in order to start construction. Admittedly, the respondents have not complied with this request till date. In the circumstances, the question of levying any extension fee from the period 2000 in any event cannot and does not arise. This is especially in view of the order of the Appellate Authority dated 28.01.2011.

4. Faced with this, it was contended that the respondents intend challenging the order dated 28.01.2011. They have not done so for almost five years now. Be that as it may, so long as the order dated 28.01.2011 is valid and operative, the present demand for extension fee is not sustainable.

4. In the circumstances, the impugned order is quashed and set aside. The respondents shall hand over the no due certificate by 11.01.2016

and process the construction plans in accordance with law by 31.03.2016.

Needless to add that the same is subject to result in any challenge to the order dated 28.01.2011. The question of any extension fee at least till the date of this order cannot and does not arise. The increased area cost of Rs.1,25,301/- shall be paid by 31.01.2016, if not already paid.

5. The writ petition is disposed of.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

21.12.2015
harjeet