

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 17828 of 1999
Date of Decision: 12.01.2016

Kailash Devi and others

..Petitioners

versus

Chandigarh Administration and others

..Respondents

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

Present : Mr. Arun Jain, Sr. Advocate with
Mr. Ashok Sehgal, Advocate, for the petitioners.

Mr. A.P.Setia, Advocate, for the respondents.

S.J.VAZIFDAR A.C.J. (Oral)

The petitioners are aggrieved by an order of resumption passed by respondent No.5-Estate Officer on the ground that the petitioners had carried out illegal constructions/alterations in the premises. The Appellate Authority dismissed the appeal. The Revisional Authority did not differ with the Estate Officer and the Appellate Authority on facts. The Revisional Authority, however, granted the petitioners an opportunity of remedying the breaches. Paragraph-3 of the said order reads as under:-

“3. Learned counsel states that the petitioners are willing to take steps to remove all violations in the building. In the circumstances, the site is restored subject firstly to the conditions that, in inspection after three months from the date of this order, no violations are found in the premises. Learned counsel states that he wishes to apply for regularization of some of the violations rather than removing them. He is at liberty to do so provided that no violation which has not been regularized is found in the premises on the date as mentioned above. If he submits any such application for regularization within a period of 15 days it should be disposed of within

one month from the date of application. Secondly, this order a subject payment within fifteen days of the amount forfeited.”

2. This petition was admitted on 11.05.2001 and an interim order was passed protecting the petitioners.

3. Learned counsel appearing on behalf of the respondents has tendered a statement which is taken on record as Mark-X. The same indicates that two violations, namely, construction of wooden mezzanine floor in two shops and reddish granite stone fixed at a particular location, had been removed. The statement, however, records that violations regarding division of two independent units with pucca and wooden partition can be condoned and are sanctionable through a revised building plan subject to approval of the Plan Advisory Committee.

4. The statement records two additional violations viz. construction of unauthorized room on the verandah by erecting aluminum partition on the first floor and two unauthorized rooms constructed on the verandah by erecting GI sheets on the third floor.

5. Learned counsel appearing on behalf of the petitioners states that the petitioners have no objection to the removal of these additional violations which are non-sanctionable. They, however, state that the same have been put by their tenants, namely, the Vigilance Department of Government of Punjab. They further state that in the event of the respondents desiring to remove the same, they will have no objection whatsoever. The statements are accepted and it is so ordered. The respondents are, therefore, at liberty to take such action in respect thereof as they desire in accordance with law without any objection from the petitioners.

6. This leaves for consideration the only violation, namely, the construction of a pucca and wooden partition on the ground floor and shop dividing the same into two independent units. The petitioner agrees and undertakes to make an application for sanctioning the same through the revised building plan subject to approval of the Plan Advisory Committee by 29.02.2015. In the event of the same being granted, the impugned order shall stand set-aside and the revision application shall be heard afresh. The petitioner agrees and undertakes that in the event of the violation not being sanctioned as aforesaid, the petitioners shall remove the same within eight weeks of the service of the order upon them. The undertaking is accepted. In the event of the petitioners failing to do so, the order of resumption shall stand. This ofcourse is subject to the petitioners' right to challenge the rejection of the application for sanction of the revised building plan.

7. The petition is accordingly disposed of.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

12.01.2016
'ravinder'

(ARUN PALLI)
JUDGE