

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

**CWP No.20297 of 2009
Date of decision: 19.10.2016**

Santosh Kumari Bali

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Vikram Bali, Advocate
for the petitioner.

Mr. Yatinder Sharma, Addl. AG, Punjab.

Mr. Amit Singh, Advocate
for respondent No.2.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the order dated 26.12.2008 (Annexure P-14) passed by respondent No.1 and the order dated 23.02.2006 (Annexure P-6) passed by respondent No.3, thereby rejecting the claim of the petitioner for sanction of building plan, as some area was found situated within the public park.

Notice of motion was issued and in compliance thereof, written statement was filed. Thereafter, the writ petition was admitted for regular hearing vide order dated 08.03.2011. That is how, this Court is seized of the matter.

Heard learned counsel for the parties.

During the course of hearing, it has transpired that petitioner

submitted an amended building plan during pendency of the present writ petition and the same has been sanctioned by the competent authority of the respondent-Municipal Council. Thus, the basic grievance of the petitioner has been redressed.

However, learned counsel for the petitioner, while placing reliance on three judgments in **Yogender Pal Vs. Municipality, Bathinda, 1995 (1) PLR 338 (SC)**, **Indian Oil Corporation through Sh. A.P. Jain Vs. Municipality, Thanesar through its Administrator, 1989 PLJ 424 (P&H)** and **Gurdev Singh Vs. State of Haryana, 2000 (2) PLR 234 (P&H)**, submits that petitioner is entitled for a reasonable compensation to be paid by the respondent-Municipal Council, because at the time of acquisition of the land for public park, no compensation was paid even to the vendor of the petitioner. He prays for allowing the present writ petition.

Per contra, learned counsel for the respondent-Municipal Council submits that the Town Planning Scheme No.2 was prepared way back in the year 1963. The land including the land under public park was duly acquired in accordance with law. He further submits that petitioner purchased the plot in question in the year 1991 and she, if at all, could claim compensation from her vendor, because the Municipal Council was not party to the sale transaction. He prays for dismissal of the present writ petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that petitioner is not entitled for any kind of compensation from the respondent-Municipal Council. It is so said because so far as the judgments relied upon by

learned counsel for the petitioner are concerned, there is no dispute about the observations made therein. However, on perusal of the cited judgments, none of them has been found of any help to the petitioner, being distinguishable on facts. It is the settled proposition of law that peculiar facts of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of even one additional fact or circumstance can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

There is no relevant material available on record of the file of this case, which may even remotely suggest that petitioner purchased the plot in question after due diligence. Learned counsel for the respondent-Municipal Council has been found well justified in contending that if at all, petitioner may seek compensation from her vendor and the respondent-Municipal Council cannot be held liable for paying any compensation to the petitioner. So far as the building plan of the petitioner is concerned, the amended building plan has already been sanctioned, as noticed hereinabove.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the writ petition having been found wholly misconceived, bereft of merit and without any substance, must fail and the same is hereby dismissed. No case for interference has been made out.

However, liberty is granted to the petitioner to pursue her other remedies against her vendor before the appropriate forum, in accordance with

law. It is made clear that if the duly sanctioned building plan has not been supplied to the petitioner so far, the same shall be supplied by the respondent-Municipal Council without any further delay, however, on receipt of usual charges.

With the abovesaid observations made and liberty granted to the petitioner, present writ petition stands disposed of.

19.10.2016
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No