

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 17215 of 2016

Date of Decision: 24.8.2016

Seema Jain and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Sushil Jain, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. Through the instant petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of mandamus directing the respondents to comply with the order dated 3.9.2013 (Annexure P-9) passed by respondent No.1 allowing their revision petition. Further, a writ of mandamus has been sought directing respondent No.3 to release the amount of ₹ 1,64,938/- charged on account of extension fee on 30.12.2003 along with interest from 30.12.2003 till its realization.

2. Late Shri Prem Kumar Jain (father of the petitioners) was allotted plot No. 128-P, Sector 14, Sonapat vide allotment letter dated 24.7.1974 (Annexure P-1). After delivery of possession of the plot on 4.6.1981, Shri Prem Kumar Jain made an application for sanctioning of the building plan which was approved vide letter dated 15.11.1981 (Annexure

P-2). Shri Prem Kumar Jain completed the one living unit in the year 1993 and a permanent water and electric connections were running in his name and was regularly paying the bills. To construct the full permissible covered area, the father of petitioners No.1 to 4 submitted the building plan in the office of respondent No.3 on 5.2.2003. When he did not receive any response, then he made the representations dated 30.4.2003 (Annexure P-3) and 20.5.2003 for sanctioning of the building plan. Thereafter, respondent No.3 vide letter dated 27.5.2003 (Annexure P-4) demanded a sum of ₹ 1,64,938/- on account of extension fee. Against the said demand, the father of petitioners No.1 to 4 filed an appeal. Respondent No.3 deputed Shri Devender Malik, Junior Engineer for inspection of the site in question who inspected the site on 12.5.2003 and gave his report that there is one dwelling unit completed as per the approved plan dated 8.1.1993 and the water connection had been sanctioned on 4/90. In the meantime, Shri Prem Kumar Jain submitted a report dated 29.4.2003 (Annexure P-5) of an independent architect, namely, Shri Parvinder Rohilla. Respondent No.2 vide order dated 18.9.2003 (Annexure P-6) dismissed the said appeal. Against the order, Annexure P-6, the father of petitioners No.1 to 4 filed revision before the Principal Secretary, Town and Country Planning, Haryana who vide order dated 13.3.2004 (Annexure P-7) remanded back the matter. In pursuance thereto, Shri Prem Kumar Jain appeared before respondent No.2 and placed all the documents on the file. Respondent No.2 vide order dated 2.7.2004 (Annexure P-8) dismissed the appeal. Feeling aggrieved, Shri Prem Kumar Jain, filed a revision before respondent No.1 who vide order dated 3.9.2013 (Annexure P-9) allowed the said revision petition. However, no action was taken thereon. Accordingly, the

petitioners moved a representation dated 3.3.2016 (Annexure P-10) to respondent No.3 for refund of ₹ 1,64,938/- along with interest, but no response has been received till date. The said amount was deposited by the father of petitioners No.1 to 4 as extension fee under protest vide letter dated 30.12.2003 (Annexure P-11 Colly). Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that for the relief claimed in the writ petition, the petitioners have sent a representation dated 3.3.2016 (Annexure P-10) to respondent No.3, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.3 to take a decision on the representation dated 3.3.2016 (Annexure P-10), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of two months from the date of receipt of certified copy of the order. It is further directed that in case the petitioners are found entitled to the refund of amount, the same be released to them within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

August 24, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No