

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

207

Civil Writ Petition No.21940 of 2014

Date of Decision:04.02.2016

Arvind Kumar and another

....petitioners

Versus

State of Haryana and others

.....respondents

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

1.Whether Reporters of local papers may be allowed to see the judgement?

2.To be referred to the Reporters or not?

3.Whether the judgment should be reported in the Digest?

Present: Mr.Anirudh Kush, Advocate
for the petitioners

Mr.Rahul Dev Singh, DAG Haryana

Mr.Deepak Sabherwal, Advocate
for respondents No.2 to 4

S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

(1) The petitioners have challenged the order passed by the Administrator, HUDA, dismissing their appeal against the order of the Estate Officer demanding extension fee, which today, we are informed would exceed ₹ 1 crore. The petitioners have also impugned the order of the Revisional Authority dismissing the revision petition filed by them against the appellate order.

(2) As noted in the impugned order itself, the only ground upon which the extension fee is demanded, is that the petitioners did not apply for the occupation certificate within a period of 30 days, stipulated in Section 11 of the Haryana Urban Development Act, 1977, (for short 'the Act') as directed by the official respondents by their communications dated 05.11.2004 and 03.12.2004.

(3) The validity of the allotment of the plot in favour of the petitioners is

admitted. It is also admitted that the petitioners completed the construction within the stipulated period. As has been mentioned earlier, the only ground upon which the extension fee is demanded is that the petitioners did not apply for the occupation certificate within 30 days as is specified in Section 11 of the Act.

(4) The plot was allotted on 31.08.1968 to the original owner. He was to complete the construction within three years. He was granted extension of an year by a communication dated 05.02.1976. Thereafter, further extensions were granted. The plot was transferred in the name of the petitioners on 28.10.1988. Admittedly, the construction was completed in the year 1993. The Municipal Corporation, Faridabad, assessed the premises for house tax for the year 1994-95. There was a demand for extension fee, inter alia, due to the occupation certificate not having been obtained.

(5) On 23.04.2004, the respondents came out with a policy which gave parties an opportunity to make an application for issuance of an occupation certificate and to get the violations, if any, compounded.

(6) The petitioners made an application under this policy. On 05.11.2004, the Administrator, HUDA, waived the extension fee, subject to the petitioners' applying for the occupation certificate, within a period of 30 days. On 09.11.2004, petitioner No.2 applied for a '*No Dues Certificate*', which was granted by an order dated 03.12.2004, subject to the petitioners' applying for the occupation certificate within 30 days. The petitioners applied for the occupation certificate.

(7) Unfortunately, neither the petitioners nor the respondent-Department had the exact date on which the occupation certificate was applied for. It must have been before 04.04.2005, for, on that date, the application was rejected.

certificate was not made within 30 days. However, as has been noted earlier, the date on which the application was made, is not available.

(8) In the facts and circumstances of the case, we would not like to speculate against the petitioners. As has been mentioned earlier, the construction was completed in the year 1993.

(9) In the circumstances, the impugned orders are set aside. The petitioners shall be at liberty to make an application for an occupation certificate latest by 10th March, 2016. The same shall be dealt with, in accordance with law. It is clarified that the occupation certificate shall not be refused on the ground of delay, in applying for the same. The extension fee stands waived.

(10) The petition is disposed of in the above terms.

**(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE**

**(ARUN PALLI)
JUDGE**

February 04, 2016

neenu