

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

CWP No. 23800 of 2016

DATE OF DECISION : 18.11.2016

Sidhartha Land Traders & Promoter Pvt. Ltd.

.... PETITIONER

Versus

State of Punjab and others

..... RESPONDENTS

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

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Sumeet Mahajan, Senior Advocate, with
Mr. Amit Kohar, Advocate,
for the petitioner.

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RAMENDRA JAIN , J.

1. The petitioner Company floated a residential colony, namely Carlton Wood Home-II, Village Ayali Kalan, Tehsil and District Ludhiana, according to sanctioned layout plan dated 03.03.2012 (Annexure P-2), after obtaining a licence dated 23.11.2012 (Annexure P-1) under Section 5 of the Punjab Apartment and Property Regulation Act, 1995 (hereinafter referred to as 'the Act') from the Greater Ludhiana Area Development Authority (GLADA), Ludhiana (respondent No.3 herein). The aforesaid licence was valid upto 22.11.2015. As per the terms and conditions of the licence, there was no obligation upon the petitioner to transfer land in favour of respondent No.3 for the purpose of allotment to Economically Weaker Section (EWS). The petitioner started developing the aforesaid colony and

deposited 25% of the External Development Charges (EDC). The reservation of 5% area by Mega/Super Mega Housing Projects for housing of EWS was specified by respondent No.1 vide notification dated 07.11.2008 (Annexure P-3). Vide another notification dated 18.06.2009 (Annexure P-5), this policy was extended to all types of Housing Projects. However, subsequent to the grant of licence to the petitioner, vide notification dated 31.12.2013 (Annexure P-4) respondent No.1 made it mandatory that in case of Housing Projects, where plotted as well as flatted development is undertaken by the developer, the area reserved for EWS. i.e. 5% area, shall be transferred to the concerned authority for construction of houses for EWS/LIG. This policy was not applicable to the petitioner Company, for the simple reason that the licence to it was granted on 23.11.2012, i.e. much prior to the issuance of the aforesaid notification dated 31.12.2013, wherein no such condition of transfer of the plots in favour of the concerned authority was imposed.

2. Pursuant to the publication of the notification dated 31.12.2013, the petitioner Company received a notice dated 21.04.2014 (Annexure P-6) from respondent No.3 requiring it to intimate respondent No.3 regarding construction of EWS units on reserved site, and in case the petitioner Company intended to construct EWS units, a schedule of the same was to be provided to respondent No.3. In the aforesaid notice, the petitioner Company was further asked to deposit ₹ 1,500/- per square feet with respondent No.3 on account of EWS funds and to transfer the land free of cost to the authority concerned. The petitioner Company was also intimated that in case, it had already reserved EWS/LIG houses for EWS or

it would construct the same at its own level, then it will be bound to allot the units to EWS as per Government policy/direction and approval of respondent No.3. Thereafter, without issuing any show cause notice to the petitioner Company and without affording an opportunity of hearing to it, respondent No.4 cancelled its licence vide order dated 24.06.2015 (Annexure P-7) on the ground that it had not paid EDC as per schedule therein and it had not transferred the land reserved for EWS in favour of respondent No.3, as per terms and conditions of the licence.

3. Aggrieved against the said order dated 24.06.2015, the petitioner Company filed an appeal dated 08.07.2015 (Annexure P-8) under Section 33 of the Act before respondent No.2, pleading therein that there was no condition in the licence requiring the petitioner to reserve or allot the plots to EWS, or to transfer the land allegedly meant for EWS to respondent No.3. The petitioner also took a stand in its appeal that the notification dated 31.12.2013 requiring transfer of land reserved for EWS in favour of respondent No.3 was not applicable to it, as it was granted licence much prior to issuance of the said notification. The petitioner further pointed out that part of EDC had already been deposited by it and vide notification dated 01.01.2016 (Annexure P-9), moratorium period was granted till April, 2016. However, vide order dated 08.03.2016 (Annexure P-10), the said appeal was dismissed by respondent No.2. Feeling aggrieved by the said order, the petitioner Company preferred revision petition before respondent No.1, which too was dismissed vide order dated 21.06.2016 (Annexure P-11).

4. Hence, by way of present writ petition under Article 226 of the

Constitution of India, the petitioner has challenged the aforesaid orders dated 24.06.2015, 08.03.2016 and 21.06.2016 (Annexures P-7, P-10 and P-11), passed by respondent Nos. 4, 2 and 1, respectively, being illegal, arbitrary, unjust and against the provisions of the Act. Further, issuance of a writ in the nature of mandamus has been sought, directing the respondents to restore licence of the petitioner and to allow it to deposit balance outstanding EDC as per the prevalent rates, without insisting upon the petitioner to transfer the land earmarked for EWS in favour of respondent No.3.

5. Learned counsel for the petitioner argued that the policy dated 31.12.2013 requiring the petitioner to transfer land reserved for EWS in favour of respondent No.3 could not be made applicable retrospectively to the petitioner, being violative of the principles of natural justice. The licence of the petitioner was cancelled illegally and wrongly, on account of non-payment of balance EDC, because vide notification dated 01.01.2016, the moratorium period was granted by the Government till April, 2016.

6. After giving our thoughtful consideration to the contentions of learned counsel for the petitioner, we find that the instant petition is completely devoid of any merit, for the simple reason that admittedly the petitioner Company did not pay EDC, as per the terms and conditions of the licence granted to it. Hence, it is apparent that the petitioner Company has not followed the terms and conditions of the licence. Therefore, its licence was rightly cancelled, vide order dated 24.06.2015. The petitioner Company availed its all legal remedies against the said order, before the prescribed authorities, by way of appeal and revision. The said order has been upheld

by the Appellate and the Revisional authorities. Hence, no interference is warranted under the extra ordinary writ jurisdiction of this court, more particularly when the petitioner Company is bound by the terms and conditions of the licence granted to it. Learned counsel for the petitioner could not point out any illegality or perversity in the impugned orders dated 24.06.2015, 08.03.2016 and 21.06.2016 (Annexures P-7, P-10 and P-11) passed by respondent Nos. 4, 2 and 1. It is needless to mention here that now a days, the courts are flooded with such type of frivolous litigation, wasting its precious time, which can be utilised in disposal of some effective and genuine litigation.

7. Consequently, this petition is dismissed with costs, which are assessed at ₹ 50,000/- to be deposited with the Punjab Legal Services Authority. Copy of this order be sent to the respondents, so as to avoid its concealment by the petitioner Company.

**(RAMENDRA JAIN)
JUDGE**

November 18, 2016
ndj

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes