

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 24792 of 2016

Date of Decision: 1.12.2016

Ranbir Kaur

....Petitioner.

Versus

The State of Punjab and another

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU.**

PRESENT: Mr. Vinod K. Kaushik, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing the respondents to declare her built up properties/building subject matter of 340 Acres Area Development Scheme (in short “the Scheme”) framed by respondent No.2, stood adjusted/exempted/accommodated as the resolutions dated 30.3.2000 (Annexure P-1) and dated 20.12.2000 (Annexure P-2) superseding the earlier resolution dated 24.7.1995 stood quashed by the orders dated 25.2.2002 (Annexure P-4) in CWP No. 2077 of 2001 and dated 25.2.2010 (Annexure P-8) in CWP No. 6646 of 2009.

2. Respondent No.2 issued a notification dated 23.12.1994 under Section 36 of the Punjab Town Improvement Trust Act, 1922 (hereinafter

referred to as “the Act”) for execution of the Scheme. The objections to the Scheme were invited from the general public. The property of the petitioner is situated in plot No.11, khasra Nos. 941, 942/9 measuring 13 marlas situated in village Sultan Wind, Sub Urban, Amritsar. In response thereto, the petitioner filed her objections for the exemption of built up shops situated at the GT Road, near canal. The objections were considered by the Improvement Trust in its meeting held on 24.7.1995 and it was decided that the land where buildings are situated on the GT Road would be adjusted/ accommodated in the lay out plan and the development and adjustment charges would be charged from the owner/occupier of the building. The said resolution was sent to the Government for sanction and the sanction was accorded by the Government vide notification dated 17.1.1996. After the sanction of the notification, the matter was again considered for exemption of the built up, buildings/factories on the GT Road in its meeting held on 5.5.1998 and the Engineering Department of respondent No.2 had put up the proposal that the possession of the building and the built up portion was not required for the execution of the Scheme. However, respondent No.2 did not take any decision on the said proposal. In pursuance to the notification dated 17.1.1996, the award dated 16.1.1998 was modified/amended by the Land Acquisition Collector. Respondent No.2 in its meeting held on 30.3.2000 (Annexure P-1) decided that the built up portion cannot be exempted. However, the decision taken in the said meeting was kept pending for the meeting to be held on 16.5.2000 and vide resolution No.67, it was decided that implementation of resolution dated 30.3.2000 be kept in abeyance for the time being. Further, the matter for release/exemption/adjustment in the layout plan of the Scheme of the built

up portion along with GT Road was again considered by respondent No.2 in its meeting held on 20.12.2000 (Annexure P-2) and it was decided that the built up portion should be demolished and showroom, commercial shopping complex should be constructed thereon. Government of Punjab vide instructions dated 8.9.1976 (Annexure P-3) decided that only 'A' Class constructed area of the building was to be exempted and directed all the Improvement Trusts in the State of Punjab to comply with the said instructions. The Land Acquisition Collector, Amritsar had threatened the petitioner to take physical possession of the property/building owned by her forcibly by demolishing the building shops. The petitioner filed CWP No. 4145 of 2001 seeking quashing of Resolutions (Annexures P-1 and P-2, respectively). This Court vide order dated 25.2.2002 (Annexure P-4) in CWP No. 2077 of 2001 quashed the said resolutions and respondent No.2 was given liberty to take further steps with regard to the property owned by the petitioner in accordance with law. In response thereto, the petitioner and other similarly situated persons made various representations including the representation dated 12.7.2005 to respondent No.2 for exempting the property owned by them. In pursuance thereto, respondent No.2 vide resolutions dated 9.6.2003, 12.12.2005 and 31.7.2005 resolved to exempt the properties of some persons but the name of the petitioner had not been included therein. Respondent No.2 vide letter dated 18.2.2009 (Annexure P-5) asked respondent No.1 for necessary approval. Respondent No.2 also sent a reminder dated 24.9.2010 (Annexure P-6) to the Director, Local Body, Punjab, Chandigarh for according approval for exemption of the buildings. One Harcharan Singh Bhatti filed CWP No. 13343 of 2001 and this Court vide order dated 25.2.2002 disposed of the said writ petition

along with CWP No. 18952 of 2008 directing respondent No.2 to decide the representation/legal notice sent by the petitioner therein. In response thereto, respondent No.2 vide order dated 29.1.2009 (Annexure P-7) refused to exempt the building of said Harcharan Singh Bhatti. The order, Annexure P-7 was challenged by Harcharan Singh Bhatti by way of CWP No. 6646 of 2009 and this Court vide order dated 25.2.2010 (Annexure P-8) allowed the said writ petition. Subsequently, some other persons filed various writ petitions and this Court vide a common order dated 2.7.2013 (Annexure P-9) disposed of the said writ petitions with a direction to the respondents to decide the claim of the petitioners therein in light of the order, Annexure P-8. Accordingly, the petitioner moved the representations dated 15.5.2016 (Annexure P-11) and dated 27.9.2016 (Annexure P-12) to respondent No.2 for exemption of property from the Scheme, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent the representations dated 15.5.2016 (Annexure P-11) and dated 27.9.2016 (Annexure P-12) to respondent No.2, but no action has so far been taken thereon. Reliance has been placed upon the orders (Annexures P-8 to P-10, respectively) passed by this Court.

4. After hearing learned counsel for the petitioner, 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.2 to take a decision on the representations dated 15.5.2016 (Annexure P-11) and dated 27.9.2016 (Annexure P-12), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the

petitioner within a period of three months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

December 1, 2016
gbs

(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No