

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

CWP No. 9024 of 2016

DATE OF DECISION : 03.11.2016

Anita and others

.... PETITIONERS

Versus

The Chief Administrator, Union Territory, Chandigarh and others

..... RESPONDENTS

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

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. I.P. Atre, Advocate,
for the petitioners.

Mr. Vikas Bali, Advocate,
for the respondent-UT Chandigarh.

Ms. Deepali Puri, Advocate,
for the respondent-MC.

* * *

RAMENDRA JAIN, J.

1. Vide allotment letter dated 17.12.1998 (Annexure P-1), the Estate Officer, UT, Chandigarh allotted Transit Site No.3, Rehabilitation Colony, Mauli Jagran, UT Chandigarh, to Hira Lal (husband of petitioner No.1 and father of petitioner Nos.2 to 4), in lieu of his Jhuggi No. 734, Labour Colony, Sector 31, Chandigarh. The said allotment was made on licence basis for a period of five years on the terms and conditions set out in the allotment letter. Condition No. 12 of the said allotment letter read as under :-

“The licensee shall not deviate in any manner
from the layout plan to alter the size of the transit

site whether by sub-division or amalgamation or otherwise.”

However, in contravention of the building plan approved by the Chandigarh Administration, the petitioners constructed a cantilever of the size of 10' x 3' on the first floor. During the survey got conducted by the Municipal Corporation, Chandigarh, the aforesaid unauthorised construction was noticed by the Building Inspector who inspected the site. Accordingly, the licensee was issued show cause notice as to why the said transit site be not cancelled. However, despite service of the said notice and affording him sufficient opportunities of being heard in person, the licensee never appeared before the competent authority. Accordingly, vide order dated 08.10.2002 (Annexure P-2), the Additional Commissioner, Municipal Corporation, Chandigarh, exercising the powers of Estate Officer under the Capital of Punjab (Development and Regulation) Act, 1952 (respondent No.2 herein), cancelled the allotment and revoked the license of the site in question.

2. It is the case of the petitioners (legal representatives of the licensee) that on 08.09.2010, i.e. about eight years after the passing of the order cancelling the allotment and revoking the license, the licensee died. The order dated 08.10.2002 came to their knowledge only after the death of their predecessor, when they approached the Chandigarh Administration for getting the site in question transferred in their favour. After dismantling the cantilever, they filed appeal against the aforesaid order dated 08.10.2002 before the Chief Administrator, Union Territory, Chandigarh (respondent No.1 herein), which was dismissed vide order dated 15.02.2016 (Annexure P-4).

3. Hence, the petitioners have filed this writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari to quash the aforesaid orders dated 08.10.2002 (Annexure P-2) and 15.02.2016 (Annexure P-4). Further prayer has been made to restore the site in question to the petitioners.

4. Learned counsel for the petitioners argued that the cantilevers which were constructed by the petitioners did not provide any additional living space and these were constructed only to protect walls of the building and to provide shade. However, since Chandigarh Administration considered it as a violation of the building plan, therefore, after removing/dismantling the same, they filed the appeal. But the appellate authority did not consider this fact.

5. On September 28, 2016, learned counsel for the respondent – Municipal Corporation had stated that after inspection of the site in dispute, it was found that the cantilever at the second floor of the building of the petitioners, as depicted in Annexure R-2, was still existing. Learned counsel for the petitioners had stated that the same shall be removed within a period of one week. Accordingly, the case was adjourned for today. Today, during the course of arguments, learned counsel for the petitioners submits that cantilever at the second floor has also been removed, and all the un-authorised constructions have been demolished. In support of his submission, he has produced three photographs, which are taken on record. Office is directed to tag the same at appropriate place. Learned counsel for the respondents also does not dispute that the un-authorised cantilevers/constructions have now been removed by the petitioners.

6. In view of the above, the impugned orders dated 08.10.2002

(Annexure P-2) and 15.02.2016 (Annexure P-4), are set aside. Resultantly, Transit Site No.3, Rehabilitation Colony, Mauli Jagran, UT Chandigarh, is restored to the petitioners. However, it is clarified that in case, any such violation of the terms and conditions of the allotment letter dated 17.12.1998 (Annexure P-1) is repeated by the petitioners, they shall not be entitled to any indulgence by this court or by any authority.

7. Petition is, accordingly, disposed of.

**(RAMENDRA JAIN)
JUDGE**

November 03, 2016
ndj

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes