

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

RA-CW-120-2015

Date of decision: 07.04.2016

Sarla Devi through Legal Heir Sh. Puneet Gupta and others
... Petitioners

Versus

Union Territory, Chandigarh and others
... Respondents

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

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. AS Talwar, Advocate,
for the applicants/petitioners.
Mr. Shekhar Verma, Advocate
for the non-applicant/respondents.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

ARUN PALLI J.

Vide this application applicants/petitioners seek review of the order, dated 27.02.1990 (Annexure AA-10), rendered by the Division Bench over 25 years ago. That is how, a separate application, for condonation of delay of 9078 days that had occurred in filing the review application, has also been moved. For, pursuant to a notice issued in the review application, respondents have submitted their response, we deemed appropriate to examine the matter on merits.

Facts that are required to be noticed are limited.

Predecessors-in-interest of the applicants were allotted SCO 39, Sector 7, Chandigarh. In terms of the letter of allotment, the allotted site could only be used for building materials and storage. For, it was let out to Indian Bank in the year 1978, the site was resumed vide order dated 09.03.1981. Appeal as also the revision petition preferred against the order of resumption was dismissed. Resultantly, allottees preferred Civil Writ Petition No.11105 of 1989 before this court, which was disposed of in the following terms:

“Civil Misc. No.3012 of 1990 allowed. Mr. Ashok Bhan, Counsel for the respondent states that if the misuse of the premises is terminated within six months, the lapse on the part of the petitioners shall stand condoned. This writ petition is accordingly disposed of in these terms, if, however misuse continues bound six months from today, this petition shall be deemed to have been dismissed. This order has been passed by the concurrence of the counsel for both the parties.”

Subsequently, an application moved by the predecessors-in-interest of the applicants, seeking review of the order dated 27.02.1990, was also dismissed. The Special Leave Petition preferred against these orders before the Hon’ble Supreme Court was dismissed as withdrawn on 09.09.1991, and the order reads thus:

“It is stated on behalf of the petitioners that they will pursue remedy available to them before the Central Government. In this view the SLP is dismissed as withdrawn.

As regards the prayer for staying the demolition, we are of the opinion that the petitioners should have relief before the Central Government.”

Post dismissal of the Special Leave Petition, applicants purport to have pursued the matter with various authorities under the Capital of Punjab (Development and Regulation) Act, 1952, as also the Central Government. But to no avail. An application moved by the applicants, who purport to be the successors-in-interest of the original allottees, for transfer of ownership of the site in their names was declined by the Estate Officer, vide letter dated 15.12.2006 (Annexure AA-16), for the site was already resumed. Faced with this, applicants preferred an appeal before the Chief Administrator, which too was dismissed. And so was the fate of the revision preferred by the applicants, as that was dismissed vide order dated 31.05.2012 (Annexure AA-19). Again, applicants preferred Civil Writ Petition No.6184 of 2013 and assailed all the three orders referred to above. The said writ petition was dismissed by the Division Bench on 01.07.2014 (Annexure AA-1), for the court was of the view that so long as the order dated 27.02.1990 exists, no effective relief could be granted to the applicants. And, a liberty was afforded to the applicants to move an appropriate application in the matter in hand. This is how, as indicated above, the applicants-petitioners are before this court.

In nutshell, all what is sought to be urged by learned senior counsel for the applicants is that subsequent to passing of the order by this court on 27.02.1990 and withdrawal of the

Special Leave Petition on 09.09.1991, Chandigarh Administration has amended its rules/bye laws in the year 2006, as a result, now, even banking activities is a permissible user.

On a due and thoughtful consideration of the matter in issue, we are of the considered view that the application is wholly devoid of merit and is, thus, liable to be dismissed for the reasons that are being recorded hereinafter.

Ex facie, appeal as also the revision petition preferred by the predecessors-in-interest of the applicants against the order of resumption, dated 09.03.1981, were dismissed. For, the allottees failed to stop the misuse of the allotted site within the period specified in the order dated 27.02.1990, passed by this court, Civil Writ Petition, against the order of resumption, was deemed to have been dismissed. And, for the Special Leave Petition preferred against the order dated 27.02.1990 was withdrawn, the allottees not only accepted the order dated 27.02.1990, but the same also attained finality. Just because the Administration amended its rules/bye laws in the year 2006, vide which permission for change of user could be obtained, would hardly be a ground, in law, to seek review of the order dated 27.02.1990, that was passed over a two and a half decades ago. Still further, the order dated 27.02.1990, was passed with the concurrence of the learned counsel for the parties. And, even an application, bearing RA No.104 of 1990, moved by the predecessors-in-interest of the applicants, seeking review of the order dated 27.02.1990, was also dismissed by the Division Bench on 21.12.1990 (Annexure R1).

Thus, a second application seeking review of the same order i.e. dated 27.02.1990, shall not be competent.

That being so, no ground is made out for review and the application is accordingly dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE

07.04.2016
Rajan