

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

CWP No.14898 of 1992 (O&M)

Date of decision : 17.05.2017

Guran Devi

...Petitioner

Versus

State of Haryana and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.**

Present: Mr. G.S. Rana, Advocate for the petitioner.

Mr. Indresh Goel, Addl. A.G. Haryana.

Mr. Bikram Chaudhary, Advocate for respondent No.2.

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**AMIT RAWAL, J. (Oral)**

The petitioner have sought the quashing of the order dated 19.05.1992 (Annexure P-4) rendered by the Commissioner and Secretary to Government of Haryana, Local Government Department, exercising the power of State Government under Section 253 of the Haryana Municipal Act, 1973 and with further a prayer of mandamus directing the respondent No.2-Municipal Committee, Thanesar to sanction the site plans of plot Nos.56 and 57 situated at Daran Kalan/Jyoti Nagar, Thanesar.

As per the case set out in the present writ petition, the petitioner, vide registered sale deed dated 18.12.1968 purchased two adjoining plots bearing Nos.56 and 57 situated in the aforementioned Nagar, from Khan Chand and one Bhagwan Dass. In order to raise the construction

had submitted an application to the Municipal Committee for approval and sanctioning of the site plan which was rejected vide order dated 04.02.1988 (Annexure P-1) that there was some scheme of park over the aforementioned two plots. An appeal was preferred against the aforementioned order before the Deputy Commissioner which was assigned to Sub Divisional Officer (Civil), Thanesar, which, vide order dated 29.11.1988 (Annexure P-2) was accepted. The Municipal Committee preferred an appeal before the Commissioner and Secretary Government of Haryana which, according to the petitioner was not maintainable. However, the respondent No.1 vide order dated 19.05.1992 (Annexure P-4) erroneously accepted the appeal.

Arguments of learned counsel for the petitioner is that Municipal Committee had framed the scheme known as Town Planning Scheme No.5 i.e. T.P. Scheme notified on 30.10.1975 which was to be completed within the stipulated period of 5 years and if not, the scheme would automatically lapse and since it was not implemented, the land would automatically vest/revert to the petitioner and, thus, with the intention to raise the construction over the aforementioned plots, plans have, erroneously, been rejected. In support of his contention, it has also been submitted that provision of Section 203 of the Haryana Municipal Act could not have been pressed into service and in this regard also filed a suit for permanent injunction for the purpose of interfering into the possession and forcible dispossession.

Mr. Bikram Chaudhary, learned counsel appearing on behalf of respondent No.2-Municipal Committee submits that as regards applicability

of the scheme i.e. the T.P. Scheme No.5, the same came to be debated upon before the Division Bench of this Court in CWP No.9019 of 1993 and vide order dated 07.01.1994 (Annexure R-2/1), the same has been held to be sanctioned in the year 1975 and was implemented in the year 1980.

He further submits that even in the judgment rendered in the appeal preferred against the judgment and decree of trial Court, same very findings came to be passed, thus, application of the petitioner seeking sanctioning of the site plans for the aforementioned plots on the premise of lapse of the Scheme, was misplaced and thus urges this Court for dismissal of the present writ petition.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no force and merit in the submission of learned counsel for the petitioner as Scheme aforementioned has been held to be operative and I would failing in my duty in not extracting the relevant portion of the findings rendered by the Division Bench of this Court. Same reads thus:-

*“The Scheme was framed under Section 203 of the Act and the owners whose land formed of the Scheme were given notice for filing objections their objections are duly considered by the Deputy Commissioners. The Scheme along with the opinion of the Deputy Commissioner on the objections filed by the land owners and the manner in which the expenses for developing the land had to be incurred were conveyed to the State Government and the State Government sanctioned the scheme under sub Section (5) of Section 203 of the Act. The only requirement is that the Scheme has to be implemented within a period of five years from the date of its sanction by the State Government.*

*The learned counsel for the petitioners concedes that the Scheme has been implemented within the stipulated period of five years. His objection that the land comprised in the scheme could not be diverted for the purpose other than the one mention in the scheme is not correct. The land covered under the Scheme has been used for permissible purpose which has been duly sanctioned by the State Government. The lease in favour of the Punjabi Samaj Sabha, Kurukshetra, has been granted by the Municipal Committee with prior sanction of the State Government and the lease is constructing a Dharamshala on the land, which is obviously a Public purpose. A large number of visitor visit the holly place, Kurukshetra, and in order to provide accommodation to the pilgrims, the Dharamshala is being constructed.*

*Apart from this, the writ petition deserves to be dismissed on account of laches and delay. The scheme was sanctioned in 1975 and was implemented in 1980. the objection to the Scheme has been raised through this writ petition which was filed on July 28, 1993, after a lapse of more than 17 years*

*For the reasons stated above, the writ petition fails and is dismissed.”*

The factum of the decision rendered by the Additional District Judge, Kurukshetra dated 08.04.1994 in appeal preferred by the petitioner against the Municipality in upholding of the Scheme is also not denied, thus, in my view the alleged cause of action accrued in favour of the petitioner seeking sanctioning of the site plan on the premise of lapse of the scheme had eroded, therefore, the order dated 19.05.1992 (Annexure P-4) rendered by the Secretary to Government of Haryana, Local Government Department cannot be tinkered/interfered with.

In view of this fact, I do not find any illegality and perversity in the order, much less, no ground for interference is made out.

Accordingly, present writ petition is dismissed.

**17.05.2017**

*Pawan*

**(AMIT RAWAL)  
JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**