

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

**CR No.7980 of 2017 (O&M)
Date of Decision: 15.11.2017**

The Ludhiana, Improvement Trust, Ludhiana and another

...Petitioner(s)

Versus

Akam Singh

...Respondent(s)

CORAM:-HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Kavita Arora, Advocate
for the petitioner(s).

ANITA CHAUDHRY, J.

This appeal is filed by the Improvement Trust aggrieved by the dismissal of their application filed under Section 151 of the Code of Civil Procedure.

The petitioners referred to the subsequent events pertaining to allotment of plots under the employee quota and were seeking dropping of the proceedings under Section 151 CPC.

Few facts are necessary to be stated.

Plaintiff was a Beldar. The Improvement Trust allotted a plot to him in 2004. The resolution vide which the allotment was made was not approved by the State Government and the Improvement Trust was directed by the Government to prepare a list again. No further allotment was made. The plaintiff filed a suit seeking allotment of the plot and sought injunction restraining them for allotting Plot No.32-D, which had been allotted to him in 2004.

The defendants filed the written statement and pleaded that the suit was barred by limitation and he had failed to approach the Court within 3 years and the allotment by itself did not create any right. It was also pleaded that the Government had restored the quota of 1%.

The defendants filed an application before the Lower Court for dropping the proceedings in the suit and take note of the subsequent events and the orders passed in CWP No.4205 of 2010 and the contempt petition bearing COCP No.43 of 2017. It was pleaded that by an interim order, the Improvement Trust has been restrained from allotting any plot to the employees and, therefore, the proceedings in the suit should be dropped to avoid any conflict with the orders passed by the High Court.

The counsel for the petitioners urges that the Division Bench had observed that the reservation in favour of the employees would not stand the test of Article 14 of the Constitution and they were restrained from allotting any flats except to the widows and orphans who do not have residential house in any urban area of Punjab State and the suit could not proceed but the Lower Court dismissed their application saying that it was interlocutory order which had yet to attain finality. It was urged that since no allotment can be made therefore, the suit could not proceed and the proceedings should have been dropped.

The petitioners have failed to place on record copy of the plaint.

The Division Bench had passed an order in January, 2014 (Annexure P-4). The defendants had filed the written statement in February, 2017 but did not incorporate the order of January 2014 in their written statement. It is not even clear what orders were passed subsequently.

In my view, the proceedings could not be dropped only because there was an interim order. The trial Court would examine the case on the basis of the evidence which is led before it. It is open to the petitioners to bring to the notice of the Court the orders passed by the High Court. The petitioners could also bring the pendency of the suits (if there are one or more) to the notice of the Division Bench. The proceedings in the Civil Suit could not have been dropped on the basis of an interim order. No doubt the Improvement Trust had been restrained from allotting any further plots. It is yet to be examined by the trial Court whether the allotment was made in 2004 or not.

I find no infirmity in the order passed by the Court below.

The present revision petition stands disposed of *in limine*.

November 15, 2017

ps-/

Whether Reasoned/Speaking

Whether Reportable

**(ANITA CHAUDHRY)
JUDGE**

Yes/No

Yes/No