

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.1077 of 2017

Date of Decision: April 05, 2017

Subhash Kataria

.....Petitioner

versus

Union Territory, Chandigarh and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mrs.Ekta Thakur, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The petitioner seeks quashing of the orders dated 20.08.2015, 25.01.2013 and 15.11.2016 (P-6, P-4 & P-8, respectively) whereby his claim for restoration of residential site No.471, Sector 32-A, Chandigarh has been turned down by the authorities primarily on the ground of such a claim being barred by res-judicata.

[2] The facts are like this. The subject site was purchased by the petitioner in an open auction held on 20.12.1975. The installments were required to be paid by end of the year 1978 but the petitioner deposited only one installment in the year 2001. Not only this, some construction was also raised without getting the building plan sanctioned. The site was consequently resumed on 20.06.1978. The petitioner filed statutory appeal which was dismissed on 28.04.1983. His revision petition was also dismissed. Thereafter, he approached this Court by way of CWP No.4993 of 2008 which was dismissed by a Division Bench on 26.08.2008. The said order has attained finality.

After five years or so, the petitioner moved an application on

17.01.2013 to the Estate Officer, U.T. Chandigarh for restoration of the site but his application was turned down. He again filed statutory appeal and revision petition which have been dismissed vide the impugned orders dated 20.08.2015 and 15.11.2016. These orders are now under challenge in this writ petition.

We have heard learned counsel for the petitioner and gone through the orders earlier passed by the statutory authorities as well as this Court. Once the resumption order has attained finality, the petitioner cannot be allowed to re-agitate the matter time and again. The second round of lis is surely barred by the principle of *res-judicata*.

We are also constrained to observe that the petitioner has not appropriately disclosed the factum of previous litigation and it is only when this Court insisted that the earlier order dated 26.08.2007 has been placed on record.

The contention of learned counsel for the petitioner to re-consider the whole matter on equitable considerations does not impress us, for the equity can be invoked to fill in the vacuum, if any, left by the law. It is well settled that principle of *res-judicata* does apply to the writ proceedings and once the previous order has attained finality, we are satisfied that the second writ petition is not maintainable.

The writ petition is thus dismissed as not maintainable.

[SURYA KANT]
JUDGE

April 05, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

103 CM No.4707 of 2017 in
CWP No.1077 of 2017

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Subhash Kataria versus Union Territory, Chandigarh and others

Present : Ms.EktaThakur, Advocate,
for the applicant-petitioner.

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For the reasons mentioned in the application, the same is
allowed subject to all just exceptions and the documents (P-1 to P-3) are
taken on record.

CM stands disposed of.

(SURYA KANT)
JUDGE

April 05, 2017
mohinder

(SUDIP AHLUWALIA)
JUDGE