

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1620 of 2014 (O&M)

Date of Decision: 10.05.2017

Amrik Singh & Ors.

... Petitioner

VS.

UT Chandigarh & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

Present: Mr. Puneet Bali, Senior Advocate with
Mr. Ranjit Saini, Advocate for the petitioner
Mr. Vikas Chatrath, Advocate for UT Chandigarh
Respondent No.5 in person

SURYA KANT, J. (Oral)

(1) This order shall dispose of CWP No.1620 of 2014 and LPA No.645 of 2015 as point is issue is common in both the cases.

(2) The petitioners seek quashing of the order dated 28.03.1988 (P1) passed by the Estate Officer - respondent No.4, whereby site No.116, Sector 11-A, Chandigarh was resumed and 10% of the total consideration money has been forfeited. Orders dismissing petitioners' appeal(s)/revision petition(s) are also impugned.

(3) In continuation of the order dated 29.03.2016 learned counsel for the petitioners informs that the wall in dispute which is common between the petitioners and respondent No.5 has since been demolished by the Estate Office and its height has been reduced to the permissible limit.

(4) Respondent No.5 who is also present in person has filed application for the recall of order dated 29.03.2017. The application is taken on record. Registry is directed to put an appropriate number on the application. He also acknowledges the fact that the Estate Office has dismantled the wall in part to reduce its height. However, he points out that

(5) Be that as it may, once the height of the wall has been reduced and the 4th violation attributed to the petitioners has also disappeared, we are of the considered view that the principles laid down by the Full Bench in ***Dheera Singh Vs. U.T., Chandigarh Admn. & Ors., 2012(4) RCR (Civil) 970*** are squarely attracted and the subject property bearing House No.116, Sector 11A, Chandigarh deserves to be restored.

(6) Consequently, the impugned orders/notice dated 28.03.1988 (P1), 08.12.1989 (P5), 28.03.1990 (P6), 07.05.2013 (P15), 04.02.2013 (P18) and 20.12.2013 (P21) are hereby quashed and the above-stated property is ordered to be restored in favour of the petitioners subject to the direction that they shall not raise any unauthorized construction in future.

(7) Respondent No.5 too has a grievance against the manner in which the wall has been dismantled by the Estate Office. He points out that he is entitled to raise additional construction on his side after getting the building plans sanctioned. If that is so, it is directed that as soon as the respondent No.5 submits the revised building plans, the Estate Officer shall consider the same and subject to removal of the objections, if any, let those building plans be sanctioned within two month so as to enable respondent No.5 to raise additional permissible construction on his side.

(8) With these observations and directions, the writ petition is disposed of.

(Surya Kant)
Judge

10.05.2017
vishal shonkar

(Sudip Ahluwalia)
Judge