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

**CWP No.15873 of 2015
Date of Decision: 31.01.2017**

Manjit Kaur and another

..... Petitioners

Versus

The State of Punjab and others

..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr. Deepak Sabharwal, Advocate,
for the petitioners.

Mr. Hanspal Virk, AAG, Punjab.

Mr. Naresh Prabhakar, Advocate,
for respondent Nos.3 & 4.

SURYA KANT J. (ORAL)

1. Smt. Jeet Kaur wife of Late Sh. Makhan Singh was allotted built up House No.HIG-1457, Phase IX, Mohali vide allotment letter dated 20.10.1987 on a tentative price of ₹2,19,542/-. The house was allotted through draw of lots.

2. Smt. Jeet Kaur allegedly occupied the house and was residing there till she passed away on 28.03.2007. The proof of her physical possession consists of electricity connection taken by her in the year 1988, the bills whereof are also on record.

3. Allotment price has been fully paid by the allottee and/or her legal representatives in the due course of time.

4. After the death of Smt. Jeet Kaur, her husband applied for the transfer of house but meanwhile he also passed away on 18.08.2008. Their son Surjit Singh had pre-deceased them. The petitioners are the widow and

son of Late Sh. Surjit Singh.

5. The grievance of the petitioners is that the allotment of the house was cancelled behind the back of Smt. Jeet Kaur on 22.03.1990 on the ground that she failed to 'occupy the house'. According to the respondents, Smt. Jeet Kaur never took formal possession of the house as per the terms and conditions of allotment. On this ground alone the allotment was cancelled and the house was resumed.

6. The legal representatives of Smt. Jeet Kaur filed appeal and revision petition which have been dismissed, giving rise to this petition.

7. We have heard learned counsel for the parties at a considerable length and gone through the record.

8. It is an admitted fact that the only ground of cancellation of allotment or resumption of the site is that the house was never 'formally' occupied by Smt. Jeet Kaur as she never applied to hand over possession nor the possession letter was ever issued in her favour.

9. The ground of resumption, in our considered view, even if factually correct, does not justify deprivation of the petitioners from the right to hold the subject immovable property. There is ample material on record to suggest that Smt. Jeet Kaur was in actual physical possession of the house and used to reside there even if she had occupied the house without prior permission of the authorities. It was not such a blatant illegality that the authorities would resume the site, for such an action can be taken rarely and as a last resort only.

9. Keeping in view the parameters laid by a Full Bench of this Court *re: cancellation/resumption of immovable property/site in the case of*

Dheera Singh Vs. U.T. Chandigarh Adminsitration and others, 2012(4)

RCR (Civil) 970, we are satisfied that there was hardly any justifiable ground to cancel the allotment or resume the site in this case.

10. Consequently, the writ petition is allowed and the impugned orders dated 05.06.2015 (P-11), 12.02.2014 (P-6) and 22.03.1990 (P-5) are quashed and the allotment is restored in favour of the petitioners, namely, the legal representatives of Smt. Jeet Kaur. However, if there are any pending dues, leviable on the petitioners, the Estate Officer may intimate such dues and on getting such notice, the petitioners are directed to deposit the due amount within one month.

11. Ordered accordingly.

(SURYA KANT)
JUDGE

31.01.2017
Bhumika

(SUDIP AHLUWALIA)
JUDGE

Whether speaking / reasoned : Yes

Whether Reportable : No.