

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

CWP No.23463 of 2012

Date of Decision: 19.07.2017

M/s H.R. Developers & Promoters Pvt. Ltd., Patiala

---Petitioner

Versus

The Patiala Improvement Trust, Patiala and another

----Respondents

Coram: **HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE**
 HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Umesh Shandilya, Advocate with
 Mr. J.S. Sidhu, Advocate and
 Mr. Mayank Mathur, Advocate
 for the petitioner.

 Mr. Salil Sagar, Sr. Advocate with
 Mr. Samarth Sagar, Advocate
 Mr. Sankalp Sagar, Advocate
 for respondent No.1.

 Mr. H.P.S. Ghuman, Advocate
 for the Municipal Corporation, Patiala.

S.J. VAZIFDAR, CHIEF JUSTICE

The petitioner seeks a writ of certiorari to quash a communication dated 05.11.2012 (Annexure P-13).

By this communication, the respondents alleged that the petitioner had failed to deposit the amounts due under the agreement dated 26.09.2011 for the sale of a plot of land ad-measuring 56 Kanals 2 Marlas by the respondents to the petitioner on the terms and conditions contained therein. The communication states that the petitioner had failed to make payment despite repeated requests and calls upon the petitioner to pay the entire amount within 15 days failing which, it was stated that the property would be forfeited in favour of the respondents and as per the direction of the Punjab Government.

The said land was transferred by the Municipal Corporation, Patiala in favour of the respondents. The respondents in turn sold the same to the petitioner. There appears to be a dispute between the Punjab Wakf Board and the Municipal Corporation, Patiala regarding the title to this land. A suit was filed by the Punjab Wakf Board in respect of a larger plot of land ad-measuring 124 Kanals, 12 Marlas of which the land in question form a part. By an order dated 12.09.1989, the suit was dismissed so far as 107 Kanal, 1 Marla is concerned but was decreed in respect of 17 Kanal, 11 Marla. The appeal against this judgment was dismissed. The Punjab Wakf Board has now filed an RSA No.1663 of 1993, which is pending in this Court and an interim order has been passed. The petitioner's application for sanctioning the development plan has not been processed, inter alia, on the ground that the dispute in respect of the land is pending.

It is in these circumstances that the petitioner contends that the impugned communication dated 05.11.2012 is illegal. The petitioner further contends that in performance of the contract it has spent over Rs.10 crores.

Several interim orders have been passed by this Court. It is not necessary for us to refer to the same in view of the stand taken by the respondents. Pursuant to the said orders, a meeting was held on 18.01.2016. The Minutes of the Meeting records that the Executive Officer had opined that as the respondents cannot pass the site plan requiring the petitioner to deposit the balance installments and cancelling the allotment was not appropriate legally and therefore, the impugned notice ought to be taken back and the proceedings for passing the said plan should be initiated after the decision in RSA. The minutes concluded with the following decision taken by the respondents:

“As per the opinion of the Executive Officer, it is mutually decided by the Trust to take back the notice of cancellation issued and it is decided whatever is the final decision of the RSA, the Trust shall in accordance with that decision initiate the proceedings regarding the plan and balance installments as per rules/directions and it is directed that the efforts must be made to get the decision of the RSA done from the court in an expedient manner. It is also decided mutually by the Trust that if there are any adverse orders in upper courts regarding this case at any stage which are against the interest of the Trust, in that eventuality the responsibility of municipal corporation must be fixed because of the reason that it is the municipal corporation which never apprised of this RSA or any other case to the Trust at any stage during the transfer of this property to Trust.”

In view of the above decision, the petitioner's grievance, so far as this writ petition is concerned, stands redressed.

Submissions were made on behalf of the petitioner regarding the claims for interest. The respondents on the other hand submitted that further payment ought to be made and the developments plan may be sanctioned.

We have expressed no opinion on this issue. In view thereof, it is not necessary to consider the prayer (c) of the writ petition at this stage. Liberty to the petitioner to adopt proceedings in respect thereof as well.

The petition is accordingly disposed off.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

17.07.2017
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Whether speaking/ reasoned:
Whether Reportable:

Yes/No
Yes/No