IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 21788 of 2013

Date of decision : 20.07.2017

M/s Brar Hotel Private Ltd.

....Petitioner

V/s

Union of India & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vikas Singh, Advocate for the petitioner.

Mr. H.S. Baidwan, Advocate for respondent no. 1.

Mr. Vikas Mohan Gupta, Addl. A.G. Punjab.

RAJAN GUPTA J.

Petitioner has prayed for a writ in the nature of certiorari for quashing order dated 21.09.2012, Annexure P-3 passed by Collector whereby he rejected the plea of the petitioner for payment of compensation on account of restrictions imposed under section 7 of the Works of Defence Act, 1903. It has been urged before the court that as the petitioner raised construction on the agricultural land in his possession, he was entitled to compensation in lieu of demolition thereof. According to him, the Collector did not appreciate the entire controversy in right perspective and arbitrarily rejected the claim of the petitioner. Prayer has been opposed by counsel representing the respondents. According to them, only those persons whose construction was existing at the site on the date notification dated 31.01.1983 was issued were entitled to compensation. As the land of the petitioner was within a distance of 1000 square yards from the crest of outer perimeter of Works of Defence, same was required to be demolished

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forthwith. They further submit that in view of conclusion in para (III) of the judgment rendered by this court in case titled as M/s Travels Star Hotels (India) Ltd. vs. Union of India & ors. (CWP No. 870 of 1999) decided on 01.07.2009, petitioner is not entitled to compensation.

I have heard counsel for the parties.

It appears petitioner raised a marriage palace on certain land within the revenue limits of village Jhande, Tehsil & District Ludhiana. He claims that he had lease hold rights over the land from the co-owners. Though no exact date of construction of marriage palace is mentioned anywhere, it appears that it has come up some time after lease-deeds/sale-deeds were executed. The defence authorities on realizing that the marriage palace had come up in violation of the Act, demolished the same in August, 2009. Petitioner instituted a claim before the Collector-cum-Additional Deputy Commissioner, Ludhiana praying that he may be granted compensation/damages on account of restrictions imposed by section 7 of the Act. The authority after hearing both the parties and perusing the demarcation report, came to the conclusion that premises fell within the 1000 square yards of the defence installation. He, thus rejected the plea. A casual reference has been made in the said order that petitioner would be entitled to compensation in view of directions given by this court in judgment rendered in CWP No. 8707 of 1999 decided on 01.07.2009. Said judgment is annexed as annexure P1 to the writ petition. A perusal of conclusion (III) contained therein shows that only those persons would be entitled to compensation whose property was in existence at the time of issuance of notification. Property of those who raised construction thereafter would be liable to be demolished. In my considered view, authorities have acted as per law. Petitioner is, thus not entitled to any compensation in lieu

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of demolition of the marriage palaces which was within 1000 square yards of the outer perimeter of Works of the Defence. Petition is, thus, without any merit and is hereby dismissed.

July 20, 2017 (RAJAN GUPTA)
Ajay JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

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