

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.23746 of 2013 (O&M)

Date of Decision: 01.05.2017

RC Arora & Sons & Anr.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

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

Present: Mr. BS Rana, Senior Advocate with
Mr. Rajinder Paul, Advocate for petitioner No.2

Mr. Deepak Balyan, Addl. AG Haryana

Mr. Dhiraj Chawla, Advocate for respondent No.2&3

SURYA KANT, J. (Oral)

(1) The first petitioner is a HUF and petitioner No.2 is its member. They claim themselves to be the vendees of industrial plot No.247, Phase-VI, Udyog Vihar, Gurgaon which was originally allotted to respondent No.5 (Monika Mittal). There existed a running industrial unit at the site when the petitioners are said to have purchased it by way of an agreement to sell. The possession of the industrial unit was handed over to them which fact is duly acknowledged by HSIIDC also. There has been a long controversy regarding the transfer of ownership of plot in favour of petitioners for the reason that the original allottee did not complete the project and thereafter did not come forward to acknowledge the transfer of her right/interest in the plot in favour of petitioners. Consequently, the plot was resumed by HSIIDC. It was in this backdrop that this Court passed the following order on 02.02.2017:-

“The controversy pertains to the resumption of industrial plot No.247, Phase-VI Udyog Vihar, Gurgaon. Unfortunately, the Corporation has taken the extreme step of resumption despite admitting in para 4 of its

written statement that there existed construction on more than 25% of the permissible covered area at the ground floor and “the unit was found operative”. However, the reason for taking possession of the premises is that respondent No.5, namely, the original allottee “failed to submit documentary proof” in support of having implemented the project approved by her.

(2). In other words, the Corporation insisted that the project must have been completed by the original allottee and not the subsequent vendee. The petitioners, on the other hand, claim themselves to be the subsequent purchasers through GPA.

(3). In these circumstances, when completion of the project is admitted by the Corporation and it is also candidly acknowledged that it was a functional industrial unit which has been resumed and forced to close down, we direct that let the stalemate be resolved as per the following:-

- (i) since the project is said to have been completed by the petitioners, the Corporation is directed to submit a specific status report regarding completion of project immediate before the resumption of site;*
- (ii) the Corporation shall determine the penalty/charges etc. to which the original allottee/petitioners are liable to pay as a result of delay in completion of the project;*
- (iii) as regard to transfer of the plot on the basis of GPA, the original allottee has admittedly not come forward. Let the Corporation therefore issue a public notice at least in two daily newspapers at the cost and expenses of the petitioners informing the original allottee(s)/subsequent transferee(s), if any, that the petitioners have applied for the*

transfer of plot and the Corporation shall accept their request, if no objection(s) are received.”

(2) In deference to the above-reproduced order, Mr. Dhiraj Chawla, counsel for HSIIDC informs that public notices have been published in two daily newspapers ‘The Tribune’ (English) and ‘Dainik Bhaskar’ (Hindi) inviting objections, if any, within one month. The said period is yet to expire. He assures that as soon as the notice period would expire and if no objections are received from any quarters, the Corporation will communicate the charges payable by the petitioners for regularization of the transfer. He has also handed over Photostat copy of the exercise undertaken by HSIIDC in which it is acknowledged that even before resumption of the site, 100% construction had been completed and M/s Mukta Fashion was found working for cloth fabrication work and making ready-made garments. There were 70 workers employed before resumption of the site. The industrial activities were thus going on at the time of resumption of the site.

(3) In this view of the matter, we see no legal impediment against regularization of the transfer of the site in favour of the petitioners provided that no genuine objections are received in response to the public notices. As soon as the notice period is over, the Corporation is directed to intimate the petitioners, the charges as per the Rules/policy, payable for regularization of the transfer which the petitioners shall deposit within two months from the date of receipt of communication. On deposit thereof, the Corporation shall pass a formal order regularizing the transfer of site in favour of the petitioners within one month.

(4) In case of any dispute with regard to the charges levied on it, the petitioners shall be at liberty to deposit the same without prejudice to its right to question fresh charges.

(5) The writ petition stands disposed of in above terms.

(Surya Kant)
Judge

01.05.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No