

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

CWP No.3516 of 2017 (O&M)

Date of decision:-06.11.2017

Sanjay Chhabra and another .. Petitioners

vs.

Chandigarh Administration and others .. Respondents

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

Present:- Mr. Aman Bahri, Advocate
Mr. Raghav Talwar, Advocate for the petitioner.

Mr. Suvir Sehgal, Sr. Standing Counsel with
Mr. Jaivir Chandail, Advocate for respondents No.1 to 4.

S.J. VAZIFDAR, CHIEF JUSTICE

Written statement filed on behalf of respondents No.1 to 4 is taken on record.

The petitioners find themselves in an unfortunate predicament. One Mangal Sain Chhabra was the owner of a 50% share in the premises, which are the subject matter of this petition. Petitioner No.2 is only the sole proprietorship firm of petitioner No.1. Petitioner No.1 and respondent No.6 are the sons of the deceased. Respondent No.5 is the widow of the deceased. Respondents No. 7 and 8 are the married daughters of the deceased. The petitioners and respondents No. 5 to 8 thus have a 50% share in the premises. Respondents No. 9 to 11 are the private respondents who own the balance 50% share in the premises.

Proceedings for resumption of the property were adopted on account of certain building violations. Ultimately, by an order dated 07.04.2014, the Revisional Authority granted six months' time to petitioner to remove the violations.

The petitioners claim that the non-compoundable violations have been removed and the compoundable violation can be removed only

by submission of revised plans. However, the authority cannot process the application for sanction of the revised plan as the property does not stand in the names of the heirs of the deceased. Thus, on the one hand, the petitioners and the heirs of the deceased are willing to remove the compoundable violations and submitted the plans for the sanction thereof but they are unable to have the same considered on account of their not having been brought on record. The application for review of the order dated 07.04.2014, was dismissed as the Revisional Authority held that he does not have the power of review.

In the facts and circumstances of the case and especially as the Revisional Authority has stated that he does not have the power to review his own order, we are inclined to dispose of the petition by passing the following order:

- (i) The respondents shall in the first instance consider the application of the petitioner and respondents No.5 to 8 to bring them on record as 50% owner of the property. If they are brought on record the respondents shall process the application for sanction of the revised plans. In the event of that application being allowed, the petitioners and respondents No. 5 to 8 shall carry out the work within six months of the receipt of the communication in writing from the respondents.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

06.11.2017
Atul

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No