

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

RSA No. 4249 of 2015 (O&M)

Date of decision : 29.09.2017.

**Haryana State Industrial and Infrastructure Development
Corporation Limited and another**

...Appellant

versus

Deepti Gupta

...Respondent

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA.

Present : Mr. Rajvir Singh Sihag, Advocate
for the appellant(s).

RAJIV NARAIN RAINA, J. (ORAL)

1. Learned counsel for the appellant argues that the nomenclature and designation “Estate Officer” occurring in The Haryana Industrial Estates (Development and Regulation) Act, 1974 does not exist in the appellant-Haryana State Industrial & Infrastructure Development Corporation Limited in the context of person competent to resume industrial property which is subject matter of allotment by the appellant. Their laws are spelled out different. There is no post of Estate Officer in HSIIDC. The Corporation is an independent autonomous body with its own seal incorporated under the Companies Act, 1956 as a Government company with its registered Articles and Memorandum of Association. It is urged by Mr. Sihag that this legal position and distinction was not kept in mind that the Act did not apply to internal rule and has escaped the notice of the first appellate Court while faulting the notice/resumption orders issued by the “Assistant

General Manager” of the Corporation for resumption of the Industrial Plot in dispute.

2. It is thus contended that the Court next below was not right in faulting the action of the Corporation when it issued notice for resumption of the industrial plot through its Assistant General Manager who is said to be the competent person to issue notices of the kind in dispute.

3. It is further argued that allotment of industrial plots are governed by the terms and conditions of the agreement executed between the plaintiff and the defendant-appellant who are in now vice-versa position in this appeal by the Corporation against the appellate decree in second appeal.

4. Having considered the contention I do not think that a case for setting aside the appellate judgment and decree is made out and, therefore, without expressing any final opinion on the framework of the law on the subject regarding the competence in issuing the impugned notices and the consequential order of resumption of the suit plot in default of payment of premium and installments etc., this Court too is of opinion that the ultimate direction and conclusion of the learned District Judge, Rewari in his judgment dated 10.11.2014 deserves to be endorsed when it sets aside the order of resumption dated 04.02.2003 and directs the Corporation to pass a fresh speaking order after issuing fresh show-cause-notice and affording reasonable opportunity of hearing to the plaintiff to explain her position and defend the allotment

for reasons she may wish to take in her objections to the notice.

5. What the lower Appellate Court has done is not far to see it has only cured fundamental breaches of the procedural safeguards and the observance of the rules of natural justice by remand. When the Appellate Court has extensively delved into the evidence on record in its elaborate judgment dealing with the facts in their proper perspective arriving at the conclusion that there are glaring infirmities at all stages of the proceeding from issuing show-cause notice till the order of resumption was passed, then I would not like to disagree on the findings of fact recorded in writing with reasons weighing on the breaches of substantive procedure and not mere technicalities, which if had been followed may have yielded a different result. Moreover, no prejudice can be said to have been caused to the Corporation by the appellate judgment and decree merely by setting aside the impugned order dated 04.02.2003 in the suit passed by the Corporation with the rider of passing a fresh reasoned order.

5. Accordingly, I would not entertain this appeal and on the other hand, would dismiss it by sustaining the concluding directions entailing remand the case to the competent authority in the Corporation to start the process afresh by issuing a fresh show-cause notice and after receiving comprehensive objections from the respondent to decide the case in accordance with law from the stage where the fault occurred at the initial stage. Thereafter, the procedure should be followed and a speaking order passed after hearing the respondent-allottee on the

grounds raised in the objections to the original show-cause notice or a fresh one issued and served on the plaintiff-respondent.

6. It is expected that the competent authority would express its opinion on the applicability of the 1974 Act, the legal position obtaining in the Corporation with regard to the person competent to initiate the procedure for resumption of industrial property and examining the conduct of the allottee throughout the period from the date of allotment.

7. Regard would also be had by the competent authorities in the appellant Corporation to the statement of law in the Full Bench of this Court in Ram Puri v. Chief Commissioner, Chandigarh, AIR 1982 Punjab & Haryana 301 approved by the Supreme Court in the case of Teri Oat Estates (P) Ltd. v. U.T. Chandigarh, (2004) 2 SCC 130 holding that resumption is a weapon of last resort.

8. With these observations and directions, the appeal is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

September 29, 2017

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Whether speaking/reasoned : Yes

Whether reportable : No