

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

244

CR No.1867 of 2018

Date of Decision: December 06, 2018

Haryana Urban Development Authority, Sector 12
Faridabad (through its Estate Officer)

.....Petitioner(s)

versus

Sree Narayana Guru Samajam (Regd.) (through its
President P.M. Vihwanathan)

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE RAJ MOHAN SINGH

Present: Mr. Deepak Balyan, Advocate for the petitioner(s).

Mr. Aditya Jain, Advocate and

Mr. Rajat Garg, Advocate for the respondent(s).

Raj Mohan Singh, J. (Oral)

The petitioner has assailed the orders dated 05.02.2018 and 16.02.2018 (Anneuxre P-5 & Annexure P-6) passed by the Executing Court whereby presence of the Chief Administrator HUDA, was required before the Executing Court.

2. Perusal of the record would show that the resumption of the plot on account of non-furnishing of cite plan was set aside by Administrator, HUDA and plot was restored vide order dated

12.03.1997. There was subsequent proceedings at departmental level in order to show inability of the authority to handover the possession of the plot as marking of the land was not possible. It appears from the record that on the one side, the authority did not give possession of the plot and at the same the authority started issuing show cause notice under Section 17 of the Act for non-making payments of installments by the plaintiff. Ultimately suit filed by the plaintiff was decreed vide judgment and decree dated 04.02.2009 in the following terms:-

“ A decree for declaration to the effect that the defendant is not entitled to charge penal interest @ 18% P.A. on compound basis pm delayed payment of instalments and the simple interest @ 11% P.A. on the delayed payment of instalments from the date of allotment can only be charged from the plaintiff and no penalty can be charged from the plaintiff for not raising construction over the plot in question unless possession is delivered to the plaintiff. A decree for mandatory injunction directing defendant to hand over the possession of the plot in question to the plaintiff within a period of 3 months from today”

3. The appeal filed by the petitioner was also dismissed vide judgment and decree dated 18.09.2013. The plea of the plaintiff in non-depositing the sale price was considered and it was held that the possession of the plot was not delivered to the plaintiff and the land was not developed. In such circumstances, if the amount was not paid, then the plaintiff could not be punished. Plaintiff was held entitled for the possession of the plot

subject to any other directions in view of pending litigation in respect of the **M.C. Mehta Vs. Union of India (1996)4 SCC 351** case in the Hon'ble Supreme Court. Thereafter, in execution proceedings dated 16.03.2017, learned counsel for the judgment-debtor made a statement in the Court that alternative plot will be given to the plaintiff on the same terms and conditions and the case was adjourned for consideration on the application filed by the authority for withdrawal of the attatchement order.

4. In the order dated 11.08.2017 passed by Executing Court, it was noticed that the requisite intimation from the Administrator HUDA was received and the list of alternative plots was sent and needful will be done in respect of allotment of alternative plot.

5. Still the aforesaid communication was not adhered to and the Court ultimately passed the following directions:-

“ At this stage, learned counsel for the JD also apprised the Court that HUDA department has undertaken the responsibility to look into all the execution petitions and to do the needful as per law within one month from today and prayed that attachment of the vehicles already issued be stayed till then. The aforesaid proposal of learned counsel for JD is not opposed by learned counsel for decree holder. Hence, till then order of the attachment of the vehicles detailed in list of proprieties is stayed.”

6. On the next date of hearing i.e. 05.02.2018, it was found that the case was sent to Chief Administrator HUDA for

final approval and no such report was received from the office of Chief Administrator, HUDA. Since the decree was not complied with despite the fact that execution was filed on 02.01.2014, taking note of facts and attending circumstances, the Court issued notice to the Chief Administrator, HUDA with a direction to appear in person. The said order dated 05.02.2018 was reiterated in subsequent order dated 16.02.2018 when an application for exemption on behalf of the Chief Administrator, HUDA was filed. During the proceedings before this Court on 20.03.2018, notice of motion was issued and impugned orders dated 05.02.2018 and 16.02.2018 were stayed.

7. Thereafter, on 26.03.2018, learned counsel for the petitioner sought time to apprise this Court about the decision taken by the Government qua allotment of property/plot to the plaintiff. On 25.09.2018 it was brought to the notice of the Court that a report has been prepared by the department/authority on 18.10.2017 and the said report was directed to be placed before this Court.

8. Perusal of the aforesaid report shows that no concrete decision has been taken by the authority in the context of honouring the decree passed in favour of the plaintiff. Faced with this situation, it appears that the petitioner authority has not acted in compliance to the decree passed by the Courts below.

9. In view of above, no indulgence can be granted in this

Revision petition and the same is accordingly dismissed.
Consequences arising out of the impugned orders (Annexure P-5
and Annexure P-6) would flow in normal course.

December 06, 2018

[RAJ MOHAN SINGH]
JUDGE

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Whether speaking/reasoned :	Yes
Whether Reportable :	Yes/No