

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

**CWP No. 14787 of 2016
Date of decision: 07.3.2018**

Rajiv Aggarwal and another

.....Petitioners

Vs

Chandigarh Administration and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr.Arun Jain, Sr. Advocate with Mr. Vikas Jain,
Advocate for the petitioners.

Mr.Suvir Sehgal, Advocate with Mr. Akshay Sethi, Advocate
for the respondents.

Ajay Kumar Mittal,J.

1. The petitioners through the instant petition under Articles 226/227 of the Constitution of India prays for quashing orders dated 20.1.1989, 06.06.2001, 26.05.2016 and 04.04.2016, Annexures P.1, P.2, P.9 and P.7 respectively passed by the respondents pertaining to Industrial Plot No.323, Industrial Area, Phase II, Chandigarh.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Industrial Plot No.323, Industrial Area, Phase II, Chandigarh was allotted to M/s Universal Fasteners through its sole proprietor Shri Gurdeep Singh Gujral at a premium of ₹ 6755/- vide allotment letter dated 31.12.1971. Respondent No.3-Assistant Estate Officer passed impugned order dated 20.1.1989, Annexure P.1 cancelling the lease of site in

question and imposed 10% of the forfeiture amount, interest and other dues on the ground of alleged building violations i.e. increase in the parking area. Against the said order, the original owner Gurpreet Singh filed an appeal before respondent No.2-Chief Administrator, UT Chandigarh under the relevant provisions. The original allottee i.e. M/s Universal Fasteners filed an appeal before respondent No.2 under the relevant provisions. Respondent No.2 restored the site and passed the conditional order that owner of the building will set right all the violations on or before 31.8.2001 and directed the owner to deposit the forfeiture amount and to inform the Estate Officer, UT Chandigarh for removal of the violations. It was further directed that Estate Officer, UT Chandigarh will inspect the site to verify whether the conditional order had been complied with or not and in case of failure to comply with the order, the impugned order shall become operational and consequential action shall follow. The owner of the building made compliance of the substantial part of the order passed by respondent No.2 by removing all the violations within the stipulated period but inadvertently failed to deposit meagre amount of forfeiture i.e. ₹ 675/- within the stipulated period. The deed of transfer of lease hold rights by way of sale in respect of plot in question was executed by the petitioner with Chandigarh Administration on 9.3.2007 which was duly registered with the Sub Registrar, UT Chandigarh. While releasing the deed of transfer, the Sub Divisional Magistrate asked the petitioner to pay the deficiency in the stamp duty amounting to ₹ 2,61,000/-. The petitioner paid the said amount and thereafter, deed of transfer, lease hold rights by way of sale in respect of the plot in question was released to the petitioner. On the basis of this deed of transfer executed with the Sub Registrar UT Chandigarh, the petitioner applied for transfer of property in their names alongwith the requisite documents. On the basis of the application moved by the petitioners, a letter was forwarded by respondent No.3 to SDO

Buildings, UT Chandigarh seeking information regarding the status of the building as according to the information on the website, the plot was being shown as resumed. The petitioner filed a detailed reply to the letter dated 16.9.2015 sent by respondent No.2 intimating that the site in question was restored by the Chandigarh Administrator, UT Chandigarh and thereafter deed of transfer of lease hold site by way of sale was executed by the original allottee in favour of the petitioners. Vide letter dated 15.11.2015, SDO (Buildings) asked respondent No.3 whether the owner of the building had deposited the forfeiture amount as ordered by respondent No.2 Chief Administrator, UT Chandigarh. Concerned Junior Engineer was also directed to inspect the site whether the alleged violation had been removed or not. It was intimated by the Junior Engineer that the building was according to the sanctioned plan as per report dated 10.3.2016 Annexure P.6. The report showed that the violations were got removed from the site within the stipulated period but the original allottee failed to deposit the meagre amount of ₹ 675/- i.e. forfeiture amount. Vide letter dated 4.4.2016, SDO (Buildings) UT Chandigarh asked the petitioners to get the site restored before the property was transferred in their names. The petitioners deposited the forfeiture amount alongwith interest amounting to ₹ 10000/- vide draft dated 11.4.2016. However, the revision petition filed by the petitioners was dismissed by respondent No.1 on the ground of limitation vide order dated 26.5.2016, Annexure P.9. Hence the instant writ petition by the petitioners.

3. A written statement has been filed by Assistant Estate Officer on behalf of respondent Nos. 1 and 2 wherein it has been inter alia stated that the petitioners did not comply with the conditional appellate order dated 06.06.2001 wherein it was specifically ordered that the petitioners should make payment of the dues within a period of thirty days but they failed to comply with the said

order and after a delay of more than one decade deposited the amount of their own. On these premises, prayer for dismissal of the petition has been made.

4. Rejoinder to the written statement was also filed by the petitioners controverting the averments made in the written statement and reiterating the same in the writ petition.

5. We have heard learned counsel for the parties.

6. Undisputedly, Industrial Plot No.323, Industrial Area, Phase II, Chandigarh was allotted to M/s Universal Easterners through its sole proprietor Shri Gurdeep Singh Gujral at a premium of ₹ 675/- vide allotment letter dated 31.12.1971. On the ground of building violations i.e. increase in the parking area, respondent No.3 passed the impugned order dated 20.1.1989 cancelling the lease of the site after imposing forfeiture of 10% of the total amount of consideration money, interest and other dues. The original allottee filed an appeal before respondent No.2 on 6.6.2001 under the relevant provisions. Respondent No.2 passed the conditional order and restored the site with a direction that the original allottee shall set right all the violations on or before 31.8.2001 and directed the owners to deposit the forfeiture amount by that date. Direction was also issued that in case the owner failed to comply with the conditional order, the order passed by the Estate Officer shall become operative. The owner of the building got removed all the violations from the site within the stipulated period but failed to deposit the forfeiture amount i.e. ₹ 675/- within the stipulated period. Thereafter, the petitioners also deposited the forfeiture amount and also the deficiency in the court fee amounting to ₹ 2,61,000/-. The deed of transfer of lease hold rights by way of sale in respect of plot in question was executed by the petitioners with the Chandigarh Administration on 9.3.2007 which was duly registered with the Sub Registrar, UT Chandigarh. Thereafter, letter was

forwarded by respondent No.3 to SDO Buildings Chandigarh to intimate the status of the building on 16.9.2015. The petitioners filed reply intimating that the site in question was already restored by the Chief Administrator and thereafter transfer of lease hold site by way of sale was executed in favour of the petitioners. Vide letter dated 15.11.2015, SDO Buildings asked respondent No.3 whether the owner had deposited the forfeiture amount and also directed the concerned Junior Engineer to inspect the site whether the violation had been removed or not. As per report dated 10.3.2016, Annexure P.6 submitted by the Junior Engineer, there was no building violation in the site in question and the building was according to the sanctioned plan.

7. Since the petitioners had removed the alleged building violations as per report dated 10.3.2016, Annexure P.6 and further they had deposited the due amount alongwith interest on 11.04.2016, the impugned orders are liable to be set aside.

8. In view of the above, the writ petition is allowed and the impugned orders dated 20.1.1989, 06.06.2001, 26.05.2016 and 04.04.2016, Annexures P.1, P.2, P.9 and P.7 respectively are quashed. It is, however, clarified that in case the petitioners or their successors commit building violations again, they shall not be entitled to any relief on the basis of subsequent removal of the alleged building violations made by them.

(Ajay Kumar Mittal)
Judge

March 07, 2018
‘gs’

(Anupinder Singh Grewal)
Judge

Whether speaking/reasoned

Yes

Whether reportable

Yes