

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-10335-2018

Date of Decision: 27.4.2018

M/s Yash Industries, Rai, Sonapat

....Petitioner.

Versus

The Financial Commissioner and Principal Secretary to Government of
Haryana, Chandigarh and others

...Respondents.

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

PRESENT: Mr. Harkesh Manuja, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the letter dated 7.9.2016 (Annexure P-11) issued by respondent No.4 raising demand of transfer fee along with service tax and interest for incorporating the name of the petitioner as owner of plot No. 1514, Sector 38, Phase I, Industrial Estate, Rai, Sonapat in their records having purchased vide sale deed dated 25.1.2017 (Annexure P-12) on payment of requisite stamp duty and to quash the Estate Management Procedure (EMP)-2015 (Annexure P-15). Further, a writ of mandamus has been sought directing respondent No.4 to incorporate the name of the petitioner in its records as owner of the plot in question or to decide the legal notice-cum-representation-cum-appeal dated 17.1.2008 (Annexure P-14) moved by the petitioner.

2. Initially plot No.1514, Sector 38, Phase I, Industrial Estate, Rai, measuring 450 square meters was allotted to M/s SLG Global Tex Private

Limited vide Regular Letter of Allotment dated 21.4.2008 (Annexure P-1) for setting up an industrial project of garments. The possession thereof was handed over vide possession letter dated 16.12.2010 (Annexure P-2) and water connection was also sanctioned in favour of the original allottee on 22.3.2013. Before issuance of occupation certificate, a clarification on the shareholding pattern of the original allottee was submitted to the respondents vide letter dated 15.4.2013 (Annexure P-3). Thereafter, occupation certificate dated 18.4.2013 (Annexure P-4) was issued to the original allottee who applied for issuance of Project Completion Certificate vide application dated 18/22.4.2013 (Annexure P-5). The Completion Certificate dated 9.10.2013 (Annexure P-6) was issued. The conveyance deed dated 5.5.2016 (Annexure P-7) was also executed by the respondents in favour of SLG Global Tex Private Limited who on 10.5.2016 authorized Mr. Harish Narsaria, one of its Directors to sell the plot in question. Consequently, an agreement to sell dated 10.5.2016 (Annexure P-8) was entered into between the original allottee and the petitioner. On the basis thereof, the original allottee applied for permission to transfer the plot in question in favour of the petitioner. A letter dated 9.6.2016 (Annexure P-9) was issued to the original allottee for submitting the documents which were submitted vide letter dated 23.6.2016 (Annexure P-10). However, respondent No.4 vide letter dated 5.5.2016 (Annexure P-11) raised a demand of transfer fee along with interest on each transfer of share by the original allottee for granting permission of transfer. On payment of sale consideration, the sale deed dated 24.1.2017 (Annexure P-12) was executed in favour of the petitioner by the original allottee. Accordingly, the petitioner moved a representation dated 31.3.2017 (Annexure P-13) to

respondent No.4 for waiver of the transfer fee and rectification of the records regarding ownership, but to no effect. Thereafter, the petitioner sent a legal notice-cum-appeal dated 17.1.2018 (Annexure P-14) to the respondents for withdrawal of the letter dated 7.9.2016 (Annexure P-11) and to incorporate the name of the petitioner as owner of the plot in question in their records, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a representation dated 31.3.2017 (Annexure P-13) followed by a legal notice-cum-appeal dated 17.1.2018 (Annexure P-14) to the respondents, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.4 to take a decision on the representation dated 31.3.2017 (Annexure P-13) followed by a legal notice-cum-appeal dated 17.1.2018 (Annexure P-14), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

April 27, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No