

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.1196 of 2018.

Date of Decision: March 16, 2018

Anirudh Gupta and others

.....Petitioners

versus

The Union Territory, Chandigarh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE ANIL KSHETARPAL.

Present: Mr.Kanwaljit Singh, Senior Advocate with
Mr.Abhishek Bajaj, Advocate for the petitioners.

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Surya Kant, J. (Oral)

The instant writ petition is directed against the order of resumption dated 15.12.2006 as well as the appellate and revisional orders dated 04.11.2009 and 31.05.2012 (P-17 & P-18), respectively, whereby the commercial site bearing SCO No.39, Sector-7-C, Chandigarh has been resumed on account of alleged violation of provisions of Capital of Punjab (Development and Regulation) Act, 1952 read with the Rules framed thereunder.

[2] It is not in dispute that earlier also the premises was resumed on 09.03.1981 on the same ground and appeal as well as revision petition filed by the petitioners/their predecessor-in-interest against those resumption orders were also dismissed. Those orders were challenged before this Court in CWP No.11105 of 1989 which was disposed of on the basis of statement made by counsel for Chandigarh Administration to the effect that in case misuse of premises was terminated within six months, the lapse on the part of the petitioners would stand condoned and the property shall stand restored.

[3] Subsequently, the petitioners sought review of the above-stated order but their review application was dismissed on 27.02.1990. They approached the Hon'ble Supreme Court through SLP which was withdrawn with liberty to pursue the remedy before the Central Government.

[4] In the year 2006, the Chandigarh Administration modified its bye-laws and taking advantage thereof, the petitioners again approached this Court through CWP No.6184 of 2013 (Ashok Kumar and others versus The Union Territory, Chandigarh and others) which was dismissed as withdrawn on 01.07.2014 in the following terms:-

“... Subsequently, Chandigarh Administration has amended its rules/bye-laws, permitting the change of use and in terms of the bye-laws amended in the year 2006, the site can very well be let out for banking purposes. Relying upon these amended provisions, the petitioners have filed this petition.

It appears to us that so long as the order dated 27.02.1990 passed by this Court dismissing the petitioners' earlier writ petition subsists, no effective relief can be granted to them in these proceedings.

In this backdrop of the matter, learned counsel for the petitioners seeks and is permitted to withdraw this petition with liberty to move an appropriate application in the above-stated decided case leaving it open for the petitioners to avail further remedy as may be available in law, if further need be....”

[5] The petitioners did not get any relief from the Chandigarh Administration, hence they filed Review Application No.RA-CW-120 of 2015 seeking review of the order dated 27.02.1990 whereby a Division Bench of this Court had disposed of their writ petition 25 years ago with a conditional order to remove violations in a time bound manner. The Review

Application was filed alongwith an application for condonation of delay of 9078 days. A Coordinate Bench of this Court dealt with the entire matter including the application for condonation of delay and dismissed both the applications, i.e., Review Application as well as application for condonation of delay by way of a self-speaking order dated 07.04.2016 (P-22).

[6] This is now 4th round of litigation initiated by the petitioners on the same cause of action challenging the resumption of their property.

[7] As the facts would speak for themselves, once the orders of resumption have attained finality in previous rounds of litigation, the principles akin to res-judicata are fully attracted, as observed by this Court in the order dated 07.04.2016 also, cited above.

[8] In all fairness, learned counsel for the petitioners wants to argue the case on merits but, in our considered view, since the writ petition is not maintainable, we cannot consider all those issues.

[9] Faced with this and having realized that the effective remedy for the petitioners would be to take recourse against the order of this Court dated 07.04.2016, their learned counsel seeks and is permitted to withdraw this writ petition with liberty to challenge the said order before an appropriate forum.

[SURYA KANT]
JUDGE

March 16, 2018
mohinder

[ANIL KSHETARPAL]
JUDGE

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