

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

**CWP No.24071 of 2014
Date of Decision: 08.05.2018**

M/s AJC Leasing and Finance Co. Pvt. Ltd.Petitioner

Vs.

State of Haryana and othersRespondent

**CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present:- Mr. Arun Jain, Senior Advocate with
Mr. Sunil |Sharma, Advocate for the
petitioner.

Mr. Sandeep Moudgil, Addl. AG, Haryana.

Mr. Jasbir Mor, Advocate for respondent
No.4.

MAHESH GROVER, J.(Oral)

The petition has been filed challenging the orders of resumption Annexures P.18 and P.19. The petitioner was allotted an industrial plot requiring an industry to be set up within a period of three years which was also an undertaking submitted by him.

Notice was served upon the petitioner apprising him of his default in not raising the construction within the stipulated period and he was granted a personal hearing on 08.07.2013 by the Director of Industries and Commerce, Haryana. The petitioner represented that he was having difficulty in getting building plans approved from the MC, Faridabad and by the impugned order, it was noticed that on an earlier representation made by the petitioner to similar effect, the Director of Industries and Commerce had ordered the company to take effective steps for execution of the project by

31.03.2014 failing which action for resumption would ensue.

Finding the stand of the petitioner to be similar to the one raised by him in response to the earlier notices, his plea was rejected and the plot was resumed vide order Annexure P-18. As a corollary to it, the petitioner was required to hand over the physical possession vide Annexure P.19 which now forms the basis of his grievance.

Learned counsel for the petitioner contended before us that he had already deposited the bifurcation fee on 24.10.2007 and building plan for approval was submitted on 04.01.2008 and for lack of the necessary approval in this regard, he was unable to raise the construction in accordance with the undertaking given by him. He brought to our notice a communication by the Chief Town Planner which suggested that building plans could not be sanctioned on account of non-approval of zoning plan. We would like to extract a paragraph from his communication dated 30.09.2014:-

“Now M/s AJC Leasing & Finance Co. Ltd. has submitted the building plan for approval which are pending due to non approval of zoning plan. Since the power and function of the Section 346 of Haryana Municipal Corporation Act 1994 has been vested to Director, Urban Local Bodies Haryana vide Notification dated 1.4.2014, therefore, the request of the applicant for approval of zoning plan (enclosed as Annexure-III) alongwith the draft of proposed zoning plan prepared by this office in triplicate are hereby forwarded for consideration and approval please.

Sd/-
Chief Town Planner
For Commissioner”

There is also a communication dated 24.04.2009 (Annexure P.8) on record where the petitioner was advised to get the sub division approved first from the planning branch of MCI and, thereafter, submit building plans for approval. The relevant portion is extracted here:-

“You are advised to get your sub division approved first from Planning branch of M.C.F and thereafter submit your building plan for approval in the office of the undersigned and only after obtaining approved building plan start your construction. In case you start your construction at your own level without getting building plan sanctioned from this office, legal action will be initiated against your for raising u/a construction.”

These facts are not denied by the respondents, who, however, insist that resumption was a natural course considering the default of the petitioner.

During the course of proceedings, the building plans have been approved vide order dated 13.01.2017 and the issues involving the various departments of the government as also the MC Faridabad qua the zoning plan stand resolved.

Before us, learned counsel for the petitioner contends that since the building plans were held up not because of his fault but largely on account of the lapse of the respondents, he could not be made to suffer. He further undertakes that in the event of resumption orders being set aside, he would raise the construction on the plot in question within a period of two

years from today.

The respondents have not been able to meaningfully controvert the factual position. And if that it be so, large part of the blame has to be shared by the respondents for not sanctioning the building plans on account of non-approval of the zoning plan. The petitioner, therefore, cannot be solely held responsible for the situation that has emerged. We, thus, find the resumption orders to be extremely harsh and equally arbitrary. Consequently, we set aside the impugned orders Annexures P.18 and P.19 but bind the petitioner to his own assertion made before the Court that he would raise the construction on the plot in question within a period of two years from today.

It is made clear that no deviation would be permitted and the petitioner shall furnish an undertaking before the Director of Industries and Commerce or any other authority that may be prescribed by him.

Disposed of.

(MAHESH GROVER)
JUDGE

May 08, 2018
renu

(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No