

Gurbax Singh  
2018.05.22 16:04

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

**CWP No. 20181 of 2017  
Date of decision: 21.04.2018**

**Dhruv Chandra**

**.....Petitioner**

**Vs.**

**The Union Territory, Chandigarh and others**

**.....Respondents**

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

Present: Ms. Isha Goyal, Advocate, for the petitioner.  
Ms. Madhu Dayal, Addl. Standing counsel for U.T. Chandigarh.

**Ajay Kumar Mittal,J.**

1. Prayer in this petition filed under Articles 226/227 of the Constitution of India is for a direction to the respondents to transfer the plot in dispute in the name of the petitioner in the official records and grant him two years time to raise construction thereon upon approval of his building plans. Direction has also been sought for setting aside the impugned letter dated 26.12.2016 (Annexure P-30) whereby it was intimated that the site in dispute stood resumed on account of non construction. Further prayer has been made for a direction to the respondents to comply with the judgment dated 27.1.2015, Annexure P-13 passed by this Court.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. On 14.06.1968, a residential plot bearing No.1563, Sector 36-D, Chandigarh measuring 2 Kanals was allotted to one Col. Rajinder Paul Madhok on free hold basis out of the plots reserved for defence personnel. The possession of the plot was handed over to Col. Rajinder Paul Madhok on 05.09.1968. After payment of full consideration, a conveyance deed in favour of the allottee was executed qua the plot in dispute on 13.05.1978, Annexure P-3. After allotment of the plot, the allottee was bound by the restriction on his right of alienation whereby except with the permission of the Estate Officer in writing, the allottee could not alienate the plot in dispute for a period of 10 years. On 25.06.1983, due to change in the circumstances and for compelling reasons, the original allottee after completion of a period of ten years from the date of allotment entered into an agreement of sale with Sh. Akhil Chandra (father of the petitioner) for a consideration of ₹ 1,00,000/-. On receiving the full consideration, the father of the petitioner was put in the possession of the plot and he was also appointed as an attorney of the original allottee vide registered deed to do all the formalities necessary for completion of the transaction of transfer of title of the plot in dispute. However, before the sale under the agreement to sell could be completed, the father of the petitioner passed away and on 18.02.1998, the original allottee appointed Mrs. Sunanda Chandra (mother of the petitioner) as his attorney for the purpose of completing the transfer of the plot in dispute. Subsequently, Smt. Sunanda Chandra applied to the Estate Officer for issuance of a clearance certificate which was granted on 20.09.1999. The said certificate was valid for execution of sale/gift deed of the plot in dispute in favour of Dhruv Chandra i.e. the petitioner. A copy of the Clearance Certificate was endorsement to the Sub Registrar, Union

Territory, Chandigarh as well as Smt. Sunanda Chandra, power of attorney of the original allottee. On depositing the extension fee, the respondents, in the Clearance Certificate, required the petitioner to obtain occupation certificate by 31.12.1999. On 30.09.1999, a sale deed was thereupon released. The petitioner applied to the respondents on 22.02.2000 for transfer of the plot in dispute in his favour in the records of the Chandigarh Administration. He also deposited ₹ 59,350/- towards extension charges/fees. Vide order letter dated 26.06.2000, respondent No.2 called upon Smt. Sunanda Chandra to pay a sum of ₹ 11,94,592/- on account of 1/3<sup>rd</sup> unearned profit subject to final settlement so that the request for transfer of the plot in dispute could be considered. Smt. Sunanda Chandra vide notice dated 25.08.2000, Annexure P-10 sent through her counsel called upon the respondents to withdraw the illegal and unjustified demand and make necessary changes in the ownership entries of the plot in dispute. On 25.08.2000 itself, respondent No.2 issued another letter to Smt. Sunanda Chandra calling upon her to deposit ₹ 31,90,382/- so that the request for transfer of ownership of the plot in her favour could be considered. Another communication was sent on behalf of Smt. Sunanda Chandra to respondent No.2 on 04.09.2000 reiterating that the demand was illegal. Aggrieved thereby, Smt. Sunanda Chandra filed Civil Writ Petition No.13595 of 2000 in this Court. The petitioner was arrayed as respondent No.4 in the said Writ Petition. Vide order dated 27.01.2015, Annexure P-15, this Court allowed the said Writ Petition holding that the claim raised by the Chandigarh Administration towards 1/3<sup>rd</sup> share of unearned increase in the price of the allotted plot was arbitrary and unjust. In the absence of deposit of amount of unearned increase, the respondents had not sanctioned the building plans. This Court granted time upto 31.12.2016 to complete the construction. This request was made since the vendee

(petitioner) was none other than the son of Smt. Sunanda Chandra and was respondent No.4 in the above mentioned writ petition. Thereafter, the petitioner filed various representations to the respondents for transfer of the plot in dispute in his name and change the ownership entry in their records so as to enable him to complete construction. It was also requested by the petitioner that the two years period granted by this Court be only considered from the date that the matters were resolved. Smt. Sunanda Chandra, mother of the petitioner also sent similar representations to respondent No.2. According to the petitioner, respondent No.2 did not reply to the representations sent by him. Rather respondent No.2 kept writing to the Finance Secretary, Chandigarh Administration for filing SLP against the judgment dated 27.01.2015. The petitioner also submitted his building plans to the respondents for approval vide applications dated 29.11.2016, 07.12.2016 and 16.12.2016. In response to these applications, the SDO (Buildings) in the office of respondent No.2 vide the letter dated 26.12.2016 informed the petitioner that as per official website, the site in question stood resumed on account of non-construction. The petitioner was asked to first get his site restored from the competent court of law. Thereafter, the petitioner sent legal notice dated 26.05.2017 calling upon the respondents to sanction the mutation/transfer ownership of the plot in dispute in his favour within a period of 15 days from the date of receipt of the notice. However, till date, no reply has been received from the respondents. Hence, the instant petition by the petitioner.

3. We have heard the learned counsel for the parties.

4. Undisputedly a residential plot bearing No. 1563, Sector-36D, Chandigarh measuring two kanals was allotted to one Col. Rajinder Paul Madhok on free hold basis, out of the plots reserved for defence personnel,

vide allotment letter dated 14.06.1968. The possession of the plot was handed over to Mr. Madhok on 05.09.1968. After payment of the full consideration, a conveyance deed in favour of the allottee was executed qua the plot in dispute on 13.05.1978. The allottee was bound by the restriction on his right of alienation, whereby except with the permission of the Estate Officer in writing, the allottee could not alienate the plot in dispute for a period of 10 years. Due to change in the circumstances and for compelling reasons, the original allottee after completion of period of 10 years from the date of allotment entered into an agreement of sale with Sh. Akhil Chandra, father of the petitioner for a consideration of ₹ 1 lacs. On receiving the full consideration, the father of the petitioner was put in possession of the plot and he was also appointed as an attorney of the original allottee vide registered deed to do all the formalities necessary for completion of the transaction of transfer of title of the plot. However, before the sale could be completed, the father of the petitioner Sh. Akhil Chandra passed away and on 18.02.1998, the original allottee appointed Smt. Sunanda Chandra, mother of the petitioner as his attorney for the purpose of completing the transfer of the plot. Subsequently, Smt. Sunanda Chandra applied to the Estate Officer for issuance of the clearance certificate which was granted on 20.09.1999. The said certificate stated that the same was valid for execution of the sale/gift deed of the plot in dispute in favour of Dhruv Chandra, son of the petitioner. On depositing the extension fee, the respondents required the petitioner to obtain occupation certificate by 31.12.1999. A sale deed of the plot in dispute was executed in favour of the petitioner. Thereafter, the Collector, Chandigarh passed an order on 22.12.1999 determining the market value of the plot as ₹ 28 lacs. It was further ordered that the deficient amount of stamp duty be realized from the party. The petitioner deposited the requisite

amount of stamp duty. Thereafter, the petitioner applied to the respondents for transfer of the plot in his favour. He also deposited the requisite extension fee. The petitioner deposited an amount of ₹ 11,94,592/- on account of 1/3<sup>rd</sup> unearned profit subject to final settlement. In nutshell, the petitioner deposited all the requisite amounts as demanded by the respondents from time to time. Thereafter, he filed various representations to the respondents for transfer of ownership of the plot in his favour. Even Smt. Sunanda Chandra filed Civil Writ Petition No.13595 of 2000 in this Court wherein, the petitioner was impleaded as respondent No.4. Vide order dated 27.01.2015, the said writ petition was allowed holding the claim of the Chandigarh Administration towards 1/3<sup>rd</sup> share of unearned increase in the price of the allotted plot to be arbitrarily and unjust. For sanction of the building plans, this Court granted time upto 31.12.2016 to complete the construction. Vide letter dated 26.12.2016, Annexure P-30 it was informed to the petitioner that as per the official website, the site in question stood resumed on account of non-construction.

5. A communication dated 15.03.2018 issued by the Estate Officer, Chandigarh has been produced in Court by the learned counsel for the respondents, wherein it has been stated that since no resumption order on account of the non-construction of site was passed on 05.04.2008 and the resumption order dated 06.06.1989 was neither implemented nor conveyed to the petitioner, as such the site may not be termed as resumed. It has been further recorded in the document attached with the communication dated 15.03.2018 that no proceedings were pending while granting NOC for sale.

6. In view of the stand taken by the respondents as narrated above, the writ petition is disposed of with a direction that the petitioner shall submit

his claim along with all the relevant documents before the appropriate authority who shall take a decision thereon afresh expeditiously after hearing the petitioner by passing a speaking order in accordance with law.

**(Ajay Kumar Mittal)**  
**Judge**

**April 21, 2018**  
**‘gs’**

**(Anupinder Singh Grewal)**  
**Judge**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No