

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.24520 of 2016

Date of Decision: July 20, 2018

Ramesh Chander Setia and othersPetitioners

versus

Chandigarh Administration and othersRespondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Baldev Kapoor, Advocate, for the petitioners.
Mr.Suvir Sehgal, Senior Standing Counsel with
Mr.Vikas Chatrath, Advocate and
Ms.Shivangi Sharma, Advocate for the respondents.

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Surya Kant, J. (Oral)

The petitioners are owners of SCO Nos.147-148, Sector 8-C, Chandigarh which were allotted on 05.12.1977 through an open auction. The site is meant for the purpose of 'General Trade'. The petitioners have constructed basement which, according to them, was in conformity with the building bye-laws and was being used for the purpose for which the site was allotted. The respondents, however, raised objection against the construction of basement especially in terms of Rule 28-A of the Punjab Capital (Development & Regulation) Building Rules, 1952, as amended on 22.01.1993, The petitioners, with a view to get rid of the show-cause notice, deposited the conversion fee of Rs.06,40,406/- and consequently, the show-cause notice re: resumption of site was withdrawn. The petitioners thereafter sought refund of the aforesaid amount and represented pointing-out, *inter-alia*, that the Rules as amended on 22.01.1993 could not be applied retrospectively in respect of a site which was allotted to them in the year 1977, moreso when the basement was also constructed prior to

22.01.1993. Such a claim has also been raised by the petitioners vide legal notice dated 17.05.2016 (P-11) as well which is still pending consideration before the Prescribed Authority.

We, thus, dispose of this writ petition at this stage with a direction to the Estate Officer, U.T. Chandigarh to consider the above-mentioned claim of the petitioners, especially keeping in view their plea that Rule 28(A) as amended on 22.01.1993 cannot be applied retrospectively, and pass a reasoned order within a period of four months from the date of receiving a certified copy of this order.

The petitioners shall be heard in representative capacity before passing the order.

[SURYA KANT]
JUDGE

July 20, 2018
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(SUDIP AHLUWALIA)
JUDGE

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