

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP no. 26821 of 2018 (O&M)
Date of Decision : 17.10.2018

Suraj Components and another

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE AMIT RAWAL

Present : Mr. P.K. Jain, Advocate for the petitioner(s)

MAHESH GROVER, J.(ORAL)

The petitioners have approached this Court with a prayer that order dated 26.5.2009 (Annexure P-6) and order dated 17.11.2015 (Annexure P-11) be quashed.

The petitioners were allotted an industrial plot vide letter dated 23.12.1998 in Phase V, Industrial Focal Point, Ludhiana. According to them the entire payment as envisaged under the allotment was duly paid and they had been in lawful possession of the plot in question. Apart from this, they had paid house tax, property tax etc. as per the demands raised by the local body.

The petitioners executed a lease with a Company by the name of Indus Towers Limited which was earlier under the management of the

Company known as Bharti Cellular Limited for erection of communication towers on the roof top of the industrial shed of the plot in question. As a measure of compliance, the Company wrote to the Punjab Small Industries & Export Corporation Limited (hereinafter referred to as 'the Corporation') vide application dated 24.6.2005 seeking permission to erect the tower.

The respondents did not respond to the same despite numerous representations in this regard. On 26.5.2009 the Corporation alleged that without seeking permission a mobile tower has been installed on the industrial plot and in terms of clause 7.7 of the allotment letter and invoking Section 10 of the Rules issued a notice as to why the allotment in question be not cancelled and the amount deposited forfeited. Finding the explanation to be unsatisfactory, order dated 26.5.2009 cancelling the allotment was passed.

The petitioners never challenged this order. They were directed to hand over the possession within 30 days of the passing of the order. The petitioners did not comply with it. It is now averred that a policy was framed by the respondents in 2013 permitting erection of communication/mobile towers and the petitioners paid to obtain the benefit of the policy.

It is stated that since the tower had already been installed the petitioners prayed for the benefit of another policy permitting a post facto approval of the erection of tower subject to payment of fee and charges which were deposited by the Company in question i.e Indus Towers Ltd.

The respondents, however, returned the draft on 15.5.2015 on the ground that allotment had already been cancelled and eviction proceedings filed. Indus Towers Ltd. filed a civil writ petition bearing

was passed. In the meantime, the eviction proceedings against the petitioners initiated by the Corporation under Sections 5 and 7 of the Punjab Public Premises Land (Eviction and Rent Recovery) Act, were concluded on 17.11.2015 holding the possession of the petitioner as unauthorized.

The petitioners did not even challenge this order and have now approached this Court to contend that both the orders dated 26.5.2009 and 17.11.2015 were erroneous and could not have been passed, particularly, in view of the policy which permitted the construction and erection of tower on the payment of fees which condition was also satisfied by the Company in question but not accepted by the respondents.

We have heard learned counsel for the petitioners and are of the opinion that there are hurdles in their way which are difficult to surmount.

When the allotment was cancelled in 2009 the petitioners had a cause to agitate. They, however, did not do so. Once the allotment stood cancelled the possession of the petitioners automatically became unauthorized. They even defied the order by not even handing over the possession which led to proceedings under Public Premises Act and these too were determined in the year 2015 and this order being appealable was not questioned by the petitioners.

Consequently, the fact situation reveals that cancellation of the allotment took away legitimacy of the possession and exposed the petitioners to the proceedings under the Public Premises Act which on determination rightly held the petitioners to be in unauthorized occupation. Even this order was not impugned and the petitioners have now approached this Court in the year 2018. Evidently the petition is barred by delay and

latches, apart from the fact that crucial orders affecting the rights of the

petitioners were never questioned by them at appropriate time and before the appropriate Fora. Therefore, we do not find any reason to interfere. Hence, instant petition is hereby dismissed.

(Mahesh Grover)
Judge

17.10.2018
rekha

(Amit Rawal)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No