

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-4485-2018

Date of Decision: 23.2.2018

M/s Skypack India Pvt. Ltd., Faridabad

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Sanjay Mittal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the letters dated 11.4.2017 (Annexure P-10) and 27.4.2017 (Annexure P-11) directing the petitioner to deposit the augmentation charges calculated on account of extended FAR, i.e. from 75% to 150%. Further, a writ of mandamus has been sought directing the respondents to charge augmentation charges as per the amended policy of Estate Management Procedure (EMP), 2015 (Annexure P-13).

2. Plot No.114, Sector 59, Faridabad measuring 3960 square meters was allotted to M/s Yogendra (India) International, New Delhi vide allotment letter dated 16.2.1996. In the year 2011, M/s Yogendra (India) International through its partners by way of equitable mortgage deposited the title deeds of the plot as collateral security against the loan of Dena Bank. The aforesaid loan had been availed by M/s Janta Engineers & Company (Iron) as per the memorandum of entry for extension of mortgage

dated 2.8.2012 (Annexure P-2). In the year 2016, the plot in question was

put on auction by the Dena Bank as M/s Janta Engineers & Company (Iron) had failed to repay the loan amount. On 9.6.2016, the auction was held and the petitioner purchased the plot in question for a total sale consideration of ₹ 6.53 crores as is clear from the e-auction details (Annexure P-3). The petitioner paid all the dues and the respondents issued 'No Due Certificate' dated 12.8.2016 (Annexure P-4) to the petitioner. A sale certificate dated 8.9.2016 (Annexure P-5) was also issued to the petitioner. After the purchase of the plot in question, a provisional transfer letter dated 17.2.2017 (Annexure P-6) was also issued to the petitioner. The agreement dated 27.2.2017 (Annexure P-7) was also executed between respondent No.2 and the petitioner. Thereafter, the re-allotment letter dated 27.3.2017 (Annexure P-8) was issued in favour of the petitioner. The petitioner moved a representation dated 2.3.2017 (Annexure P-9) to the respondents regarding the fee for plot in question as per FAR @ 150%. In response thereto, respondent No.4 vide letter dated 11.4.2017 (Annexure P-10) informed that the permissible FAR is 75% as per the approved Zonal Plan of HSIIDC, Sector 59, Faridabad. As per the said letter, the augmentation charges had been mentioned as ₹ 82,59,075/- after increase in FAR from 75% to 150%. Vide letter dated 27.4.2017 (Annexure P-11), respondent No.4 directed the petitioner to deposit the augmentation charges of ₹ 83,59,075/- calculated on account of extended FAR from 75% to 150%. As per the EMP dated 14.8.2015 (Annexure P-12) announced by the State Government vide notification dated 14.8.2015, the HSIIDC would revise its estate management procedures. The said policy which had come into operation w.e.f. 16.10.2015 was amended vide policy dated 8.3.2017 (Annexure P-13). As per the amended policy, the FAR admissible in the general

industries as on date is 150%. Accordingly, the petitioner moved the representations dated 22.6.2017 (Annexure P-14 Colly) to respondent No.3 for waiving off the augmentation charges of the plot in question, but to no effect. Thereafter, the petitioner sent a legal notice dated 6.12.2017 (Annexure P-15) vide postal receipts dated 7.12.2017 (Annexure P-16) to the respondents, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has made the representations dated 22.6.2017 (Annexure P-14 Colly) followed by a legal notice dated 6.12.2017 (Annexure P-15) to the respondents, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the legal notice dated 6.12.2017 (Annexure P-15), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

February 23, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No