

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-4977-2018

Date of Decision: 1.3.2018

Shri Shalinder Tokus and another

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Sandeep Sharma, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the impugned order dated 19.1.2017 (Annexure P-9) and to refund the extension fee along with interest.

2. The petitioners were owners of plot No. 994, Sector 40, Urban Estate, Gurugram vide allotment letter dated 26.3.2010 (Annexure P-1). They applied for the approval of the building plan which was approved vide letter dated 6.5.2013 (Annexure P-2). On coming to know that sewer line was going through their plot, the petitioners requested the respondents to shift the sewer line. In response thereto, respondent No.4 vide letter dated 23.8.2013 (Annexure P-3) directed the Executive Engineer to take necessary action. The petitioners moved the representations dated 24.7.2013 and 19.2.2016 (Annexures P-4 and P-5, respectively) to respondent No.4 for

8.3.2016 (Annexure P-6), respondent No.4 directed the Executive Engineer to shift the sewer line who vide letter dated 28.9.2016 (Annexure P-7) informed respondent No.4 that the sewer line and manhole had been shifted. The petitioners had got the site plan sanctioned on 6.5.2013. They requested respondents No.3 and 4 to waive off the extension fees for the period from 2013 to 2016 as they could not start construction work at the site due to delay in shifting the sewer line and manhole. Respondent No.4 vide letter dated 29.11.2016 (Annexure P-8) asked respondent No.3 as to whether offer of possession can be considered as 28.9.2016, i.e. date of shifting of manhole over the plot of the petitioners and the decision regarding charging of extension fee from the petitioners. Respondent No.3 vide letter dated 10.1.2017 (Annexure P-9) written to respondent No.4 refused to change the date for offer of possession of the actual possession and asked for a report as to why so much time was taken in shifting the manhole and the sewer line. Respondent No.4 vide letter dated 23.2.2017 (Annexure P-10) informed petitioner No.1 that the sewer line on the plot in question had been shifted. The petitioners paid the extension fee for non-construction of house at the site under protest. Further, vide certificate dated 28.2.2017 (Annexure P-11) issued to petitioner No.1, it was mentioned that the construction of the plot in question had been completed upto plinth level and measurement had been checked at the site and found as per demarcation and zoning plan of the sector and the revised building was also approved. As per the photograph dated 23.7.2013 (Annexure P-12), there was a manhole in the plot of the petitioners which was shifted in the year 2016 as is clear from the photograph (Annexure P-13). Accordingly, the petitioners made a representation dated 10.3.2017 (Annexure P-14) to

respondent No.2 for refund of extension fee along with interest, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that for the relief claimed in the writ petition, the petitioners have moved a representation dated 10.3.2017 (Annexure P-14) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, 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 representation dated 10.3.2017 (Annexure P-14), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of three months from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

March 1, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes