

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

**209**

**CWP-8980 OF 2017 (O&M)**  
**Date of Decision: 20.03.2018**

**SUNIL TAXAK**

....Petitioner.

Versus

**CHANDIGARH ADMINISTRATION**

...Respondents.

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

Present: Mr. K.K. Gupta, Advocate for  
Mr. J.S. Toor, Advocate  
for the petitioner.

Ms. Shubreet Kaur, Advocate  
for the respondents.

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**ANUPINDER SINGH GREWAL, J.**

The petitioner has impugned orders dated 09.09.2009, 15.03.2010, 21.12.2011, 27.08.2012 (Annexure P-5) (Colly.) passed by the respondents, whereby the petitioner has been asked to pay extension fee. He has also sought further direction to the respondents to refund the extension fee amounting to Rs.29,75,000/- along with interest at the rate of 12% per annum.

2. The respondents had put up number of residential sites for auction on 27.02.2006. The petitioner was the highest bidder for residential site measuring 10 marla (253.50 square yards) bearing No.329, Sector 40-A, Chandigarh for an amount of Rs.35 lakhs. The petitioner had deposited Rs.8,75,000/- as earnest money after acceptance of his bid. He is stated to have deposited balance amount for 25% of the earnest money before issuance of allotment letter. The allotment letter was issued on 30.04.2004. In terms of Clause 5 of the allotment letter, balance 75% of the consideration amount was to be

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paid in lump sum within a period of 30 days or in three equated installments along with interest. The petitioner is stated to have deposited entire 75 % of the amount in lump sum within 30 days. The conveyance deed was executed on payment of stamp duty of Rs.2,10,000/- on 12.01.2005. However, the petitioner could not carry out the construction and therefore, by the impugned orders, extension fee of Rs.29,75,000/- was required to be deposited by the petitioner.

3. Learned counsel for the petitioner has contended that the petitioner could not carry out the construction as there was a big tree on the allotted site and he had applied to the Estate Officer for removal of the said tree. It was only on 08.04.2013 that the Horticulture Department had accorded approval for removal of the tree and, therefore, extension fee could not have been levied on the petitioner.

4. Learned counsel appearing for the respondents has, however, contended that the petitioner had earlier been seeking extension of the period of construction on personal grounds and it was only on 19.10.2013 that the petitioner had written to the respondents about removal of tree and, therefore, the extension fee as demanded was fully justified.

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

6. We are of the considered view that the petition raises disputed questions of fact, which would be difficult to be adjudicated in writ jurisdiction. It is the case of the petitioner that he had been requesting the authorities for removal of the tree and had sent applications including on 28.02.2005 for removal of the tree. This has

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been denied by the respondents and they have also produced the record to indicate that no such application was received by them.

7. Learned counsel for the petitioner, by relying upon the photograph of the tree annexed as Annexure R-1/3, has contended that the tree could not have come up all of a sudden in the year 2012 as is sought to be projected by the respondents and due to the Papri tree, the petitioner was unable to carry out the construction.

8. The factum of the tree which is said to have come up in the plot allotted to the petitioner is not disputed, however, as to when the tree had grown and the dates when the petitioner has made applications for its removal are disputed questions which would be difficult to be decided without recording evidence.

9. Therefore, the petition is disposed of with liberty to the petitioner to seek his remedy before the civil court, in accordance with law.

**(AJAY KUMAR MITTAL)**  
**JUDGE**

**(ANUPINDER SINGH GREWAL)**  
**JUDGE**

**20.03.2018**

SwarnjitS

Whether speaking/reasoned : YES/NO

Whether reportable : YES/NO