

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15269-2015 (O&M)

Date of Decision:-13.03.2019.

Sushil Kumar and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Jitender Dhanda, Advocate for the petitioners.

Mr. Pankaj Mulwani, DAG, Haryana.

ARUN MONGA, J. (Oral)

Learned counsel for the petitioner, *inter alia*, contends that additional stamp duty has been imposed on the purchase of land by the petitioners/proforma respondents vide impugned order dated 30.07.2012 (Annexure P-3) passed by the Collector, Fatehabad merely on an apprehension that the land in question had been purchased for carving out residential plots and further sale thereof. He relies on a letter dated 25.10.2011 (Annexure P-5) issued by the District Town and Country Planner, Fatehabad addressed to Senior Town Planner, Hisar, wherein it has been stated that after carrying out spot inspection and also as per the revenue record obtained from the Tehsil Office, the land is being used for cultivation of paddy crop. The said letter also states that constant watch is

being kept on this land and if any movement is noticed for development of

unauthorized colony on this land, a strict action will be taken against the colonizers.

2.) Learned counsel for the petitioners contends that an appeal filed against the order passed by the Collector was dismissed by misinterpreting the said letter dated 25.10.2011 (Annexure P-5) in as much as stating that it is evident from the letter that illegal colony is being set up on the land in question.

3.) For better appreciation, the relevant extract of the letter exchanged between the District Town Planner and Senior Town Planner vis-a-vis the relevant of the order passed by the appellate authority are reproduced hereinbelow:-

“Extract from the letter:-

According to the Revenue record obtained from the Tehsil Office no sale and purchase of the plots has took place in Khasra No.316//8, 9, 10/1, 11/2 12, 13, 18, 19, 20 and it is situated in the area of Mauja Basti Bhinva, Bighad Road and paddy crop is present on 28 kanal, 6 marla out of this land. Even after this a constant watch is being kept on this land. If any movement is being noticed for development of unauthorized colony on this land a strict legal action will be taken against the colonizers.

Extract from the appellate authority order:-

There is already a complaint that illegal colony is coming out of on Bighar Road with respect to Khasra number 316//8-9-10/1-11/2-12-13-18-19-20 etc. as it is evident from letter between District Town Planner and Senior Town Planner. The exact Khasra number was not recorded in the sale deed and it was registered by writing only khewat and khatoni number and shares of venders. Further the location was also

concealed. Therefore, appellants do not deserve any concession, who does not come to the government office with clean hand. The intention of colonization is very clear as land was left vacant in subsequent girdawari.”

4.) A perusal of the above clearly reflects that the appellate authority has misinterpreted the contents of the letter relied upon by the petitioners/proforma respondents. Confronted with this situation, learned State counsel submits that let the matter be remanded back for fresh consideration by the learned Collector, who will pass appropriate orders after hearing the petitioners/proforma respondents. He further contends that the impugned order passed by the learned Collector was also passed *ex parte* as despite service of notice, the petitioners/proforma respondents did not appear before the Collector.

5.) Be that as it may, in view of the discrepancy/misinterpretation of the letter by the appellate authority qua the letter relied upon by the petitioners/proforma respondents, impugned order dated 02.09.2014 (Annexure P-4) passed the appellate authority is set aside and the appeal is restored to its original number with directions to the appellate authority to dispose of the appeal afresh by passing speaking orders after granting opportunity of hearing to the petitioners/proforma respondents.

6.) Disposed of accordingly.

(ARUN MONGA)
JUDGE

March 13, 2019.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.