

CWP-27240-2015

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

CWP-27240-2015

Date of Decision: February 05, 2019

Municipal Council

... Petitioner

vs.

Permanent Lok Adalat and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Mukul Aggarwal, Advocate
for the petitioner.

Mr. Sumeet Goel, Advocate
for respondent No.1.

Mr. Rajesh Sethi, Advocate for
Mr. Arun Biriwal, Advocate
for respondent No.2.

Mr. Sunil Kumar Vashisth, Deputy Advocate General, Haryana
for respondent No.3.

ARUN MONGA, J

The present writ petition has been filed by the Municipal Council, Fatehabad, seeking issuance of a writ in the nature of certiorari to quash the impugned order dated 23.07.2014 (Annexure P8) passed by respondent No.1- Permanent Lok Adalat, Fatehabad. Vide the impugned order, the petitioner has been directed to refund a sum of Rs.12,462.00/- alongwith interest @ 18% per annum from the date of deposit, i.e. 28.07.1992, till the date of actual payment and further to pay a sum of Rs.2,000/- as compensation on account of harassment.

2. Succinctly, the facts of the case are that respondent No.2 wanted to construct a building on his plot falling in the revenue estate of Fetehabad.

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Accordingly, he submitted a building plan alongwith requisite documents and applied for necessary permission thereof. He also deposited an amount of Rs.12,462/- alongwith proposed site plan to be sanctioned by the Municipal Council.

3. It is the contention of respondent No.2 that, initially, Municipal Council officials conveyed that the said site plan has been sanctioned. However, later on, it was conveyed that the building plan was not sanctioned and the amount deposited would be refunded in due course. This refund was the bone of contention before the Permanent Lok Adalat (PLA).

4. Respondent No.2 has pleaded that despite the request made by him, the Municipal Council did not refund the amount which was accepted for the purpose of sanctioning the building plan. The same led to filing of a claim before the Permanent Lok Adalat. The present petition has been filed by the Municipal Council against grant of said claim by the PLA.

5. The lead argument of the petitioner is that the claim of respondent No.2 was hopelessly time barred. The Permanent Lok Adalat, therefore, was not justified to direct the petitioner to refund the amount alongwith 18% interest.

6. Having gone through the pleadings and the rival contentions raised by learned counsel for the parties, I am of the opinion that the impugned order passed by learned Permanent Lok Adalat has gone into the said objection and given a fair and reasonable justification. In as much as, it observed that the onus, of responding qua the deposit with regard to sanction of the building plan, was on the Municipal Council. Learned Permanent Lok Adalat has rightly observed in its award as under:-

“The respondents have also not placed on record any document submitted by the petitioner in their office

admitting the fact that he had come to know about the non-sanction of the building plan and he was not willing to withdraw the amount. Therefore, the fact remains that the petitioner had been approaching the respondents for the refund of the amount on having come to know about the non-sanction of the building plan. But the respondents did not accede his request. Therefore, in that manner, the respondents have illegally retained the amount of Rs. 12,462/- of the petitioner and caused mental and physical harassment to the petitioner with their acts.”

7. Learned Permanent Lok Adalat also relied upon judgment rendered in **Kamaljeet Singh Chatrath and others vs. State of Haryana and others, 2013 (1) PLR 549**. Relying upon it, learned Permanent Lok Adalat has rightly negated the objection of limitation. Relevant extract of the impugned award reads as below:-

“The Writ Petition was allowed by Hon'ble High Court and the Society was directed to refund to the petitioners the amount which was illegally charged. It was held by Hon'ble High Court that if a money which is illegally charged unauthorizedly, the refusal to refund the same would be a fresh case on each refusal. The issue of claim being time barred would not arise. It is not the claim which is being made by the petitioners. It is their own money which is lying with the Society and it was illegally charged is kept or retained. Prayer is to release the amount. Cause of this action would arise every day when the demanded is declined.

This authority is fully applicable in the present case. Therefore, we have no hesitation to hold that the petition of the petitioner is not time-barred in any manner.”

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8. I am in agreement with the aforesaid findings/observations of the PLA and, therefore, do not consider it necessary to interfere with the same. Except to the extent, that the interest granted by the learned PLA is reduced to 6% per annum and is confined to 38 months prior to filing of the petition before PLA.

9. With these observations, the present writ petition is disposed of and the award of learned PLA is modified in terms, as noted above.

February 05, 2019
smriti

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No