

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

C. W.P. No.29301 of 2019

Date of Decision:- 02.11.2019

Amrik Singh

....Petitioner

vs.

Union Territory, Chandigarh and others

....Respondents

**CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present:- Petitioner in person.

SUDHIR MITTAL, J.

This writ petition seeks quashing of orders dated 21.12.2009 (Annexure A-10), 5.5.2015 (Annexure A-16) and 21.5.2018 (Annexure A-34) with a further prayer that the respondents may be directed to hand over the possession of House No. 1136, Sector 21-B, Chandigarh.

As pleaded in the writ petition, the petitioner is about 93 years' old and is suffering from various diseases. He is continuously under treatment at RML Hospital, Safdarjung Hospital and All India Institute of Medical Sciences, New Delhi. To save his eyesight, injectables have been administered and further investigation is going on. He has been advised to take complete rest.

Despite the aforementioned ailments, the petitioner has appeared in person assisted by a servant. We have heard him at length.

A large number of documents have been annexed with the writ

petition but we are referring only to the relevant ones.

The dispute in the present writ petition pertains to resumption of the site on which House No. 1136, Sector 21-B, Chandigarh has been erected. The original allottee of the said site was one Hazura Singh, who allegedly completed the construction in the year 1962. Thereafter, he applied for occupation certificate but the same was not issued. The petitioner and his wife jointly purchased the property vide sale deed dated 04.09.1985 but after the demise of his wife, the petitioner alleges to be the sole owner thereof. Thereafter, in the year 1992, staff of the Estate Office demolished a part of the servant's quarter, whereupon the petitioner got issued a registered notice dated 13.12.1992, to the Estate Officer seeking compensation to the tune of ₹ 15,000/-. Later, a representation was made for issuance of the completion certificate. The record indicates that the Sub Divisional Officer (Buildings) wrote a letter dated 6.3.1996 to the petitioner informing him of certain violations in the construction. This was responded to by an Architect engaged by the petitioner vide letter dated 18.6.1996. This letter states that there were no violations in the building and that the record of the house indicated that partial completion certificate had been issued in the year 1965. The building and plot had been sold after obtaining 'No Objection Certificate' from the Estate Office, which allegedly corroborated the assertion that there were no violations in the construction already raised. Thus, it was requested that completion certificate be issued. The record of the writ petition further indicates that the Finance Secretary U.T., Chandigarh, issued a memo. dated 27.7.1998 to the petitioner informing him of the non-sanctionable violations. Against this memo., the petitioner submitted a representation dated 31.12.1998 to the Advisor to the

Administrator of U.T. Chandigarh. This representation also refers to two appeals filed against orders of the Administration rejecting issuance of occupation certificate. The outcome of this representation is not clear but it appears that show cause notice dated 8.3.2000 was issued to the petitioner directing him to show cause why his property be not resumed. Pursuant thereto, resumption order dated 21.12.2009 was passed by the Estate Officer on account of building violations. When this order was communicated to the petitioner, he responded vide letter dated 22.3.2010 stating therein that the order was without jurisdiction and perverse and that copies of the documents be supplied to him at his Delhi address. He also appealed against the resumption order but the appeal was dismissed vide order dated 3.10.2012. The petitioner carried a revision against the appellate order which was decided vide order dated 22.9.2014. Keeping in view the old age of the petitioner, the Revisional Authority set aside the order of resumption and directed the petitioner to demolish the non-sanctionable violations within six months and to submit a revised building plan incorporating the sanctionable violations within the same period. It was further directed that any charges due, should also be paid within the same period. The petitioner sought review of the order passed in his favour, vide review petition dated 27.11.2014, *inter alia*, stating therein that there were no non-sanctionable violations in his building. Interestingly, a letter dated 10.4.2015 was written by the petitioner to the Sub Divisional Officer (Buildings) informing him that a shed constructed in the rear courtyard had been demolished by him. The review petition was, however, dismissed vide order dated 5.5.2015 on the ground of maintainability. This order was passed in the presence of the petitioner but yet he sought information regarding the outcome thereof, which was supplied to him vide letter dated 12.10.2015 informing him that

the review petition had been dismissed. Meanwhile, the petitioner also submitted revised building plans and vide letter dated 10.1.2016, the Sub Divisional Officer (Buildings) informed him that revised building plans could not be considered in respect of a resumed site. Instead of removing the non-sanctionable violations, the petitioner persisted with further representation dated 4.7.2016. Obviously, no relief could have been given to the petitioner on this representation and the house was sealed on 26.9.2016. Yet another representation dated 29.9.2016 was made by the petitioner and the Advisor to the Administrator U.T., Chandigarh, called him for personal hearing on 21.5.2018. After hearing him, order dated 21.5.2018 was passed by him rejecting the representation on the ground that after the dismissal of the review petition, he had no jurisdiction in the matter. Thus, the present writ petition has been filed, *inter alia*, challenging order dated 21.5.2018 as well as the order of resumption.

After hearing the petitioner and examining the record in detail, it appears that the petitioner is fixated with a notion that a deemed partial completion came into being in the year 1965. The petitioner had not raised any construction after purchasing the property and, thus, it had to be assumed that there were no building violations. The impugned orders had failed to take the same into consideration and, thus, were illegal. Malafides have been alleged against the then Sub Divisional Officer (Buildings) Sh. BS Sidhu.

After considering all the facts and circumstances of this case, we find that no relief can be granted to the petitioner. No provision of law has been cited before us to conclude that by fiction of law, a deemed partial completion certificate came into existence in the year 1965. Instead of

submitting the revised building plans and getting the violations regularised, the petitioner kept on insisting upon issuance of a completion certificate. While he was still pursuing the issuance of occupation certificate, show cause notice dated 8.3.2008 was issued to him for resumption. This was also ignored by the petitioner resulting in passing of resumption order dated 21.12.2009. This order lists out the sanctionable building violations as well as the non-sanctionable ones based upon a physical site inspection carried out by the Finance Secretary in the presence of the petitioner. Thus, there is no illegality in the resumption order. Still, all was not lost. The revision of the petitioner succeeded and he was given six months' time to remove the non-sanctionable violations and to submit a revised building plan for regularisation of the sanctionable violations. Instead of taking advantage of the situation, the petitioner chose to file a review petition alleging that there were no non-sanctionable violations and, thus, the order directing him to demolish part of his building was illegal. The opportunity which came the petitioner's way, thus, slipped away and he has only himself to blame for it. Making further representations could not have helped the case of the petitioner and under the circumstances order dated 21.5.2018 was bound to have been passed.

For the aforementioned reasons, there is no merit in the writ petition and the same is dismissed in limine.

(DAYA CHAUDHARY)
JUDGE

November 02, 2019

poonam

Whether speaking/reasoned

Whether reportable

(SUDHIR MITTAL)
JUDGE

Yes

No