

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CWP No. 12562 of 2018

Date of Decision: 27th October, 2020

Karan Singh Saini and another

.....Petitioners

Versus

Haryana Urban Development Authority and others

.....Respondents

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN**

Present: Mr. Anishka Gupta, Advocate for the Petitioners.

Mr. Deepak Sabherwal, Additional Advocate General, Haryana.

Dr. S. Muralidhar, J.

1. This is the second round of litigation involving the present Petitioners. The Petitioners are aggrieved by the non-sanction of the building plan submitted by the Petitioners to the Respondent No.1/Haryana Urban Development Authority ('HUDA'). The writ petition impugns a letter dated 11th August, 2017 of the Estate Officer, HUDA, by which the Petitioners' request to treat the period of litigation, involving the property in question viz., Plot No. 18-P, NMT, Sector-1, Rewari, as "zero period" has been declined without assigning any reason.

2. The admitted position is that the Petitioners took possession of the plot in question on 31st July, 1995 and way back on 9th August, 1995, submitted the building plan in the office of the Estate Officer, HUDA. The person who earlier contested the allotment of the said plot to the Petitioners, one Mr. Madan Lal Taneja, filed CWP No. 11481 of 1995, in which the present two Petitioners were impleaded as Respondent Nos. 5 and 6. By an interim order dated 8th August, 1995, this Court while issuing notice of motion in the said petition, directed status quo to be maintained.

3. By a judgment dated 2nd August, 2013, the aforementioned writ petition of Madan Lal Taneja was dismissed. In other words, the status quo order of this Court remained in place from 8th August, 1995 until 2nd August, 2013. Thus, the building plan, as submitted by the Petitioners, could not have been considered by the HUDA during this period of nearly 18 years and for this

reason, the Petitioners requested HUDA that the aforesaid period be treated as “zero period”, for the purpose of sanctioning their building plan, the payment of the extension fee as well as the period during which the Petitioners were supposed to complete the construction of the building on the said plot in question.

4. By a letter dated 9th March 2017, the Superintendent for Administrator, HUDA requested the Chief Administrator, HUDA to examine the matter concerning the litigation period being treated as “zero period”. The Chief Administrator, HUDA by a letter dated 21st July, 2017 informed the Administrator that there was no policy for treating the litigation period as “zero period”. It was further noted in the said order that the “dispute was created by the allottees themselves and as such no benefit for treating the litigation period as zero period can be given to the allottee”. Thereafter, the Estate Officer, HUDA, Rewari issued the impugned letter dated 11th August, 2017 informing the Petitioners that their request for the litigation period to be treated as a “zero period” had been rejected.

5. The Petitioners thereafter submitted a detailed representation dated 29th August, 2017 requesting that the litigation period be treated as “zero period”. It is stated in the petition that when no decision on the aforesaid representation was communicated to the Petitioners, they filed the present petition on 1st March, 2018.

6. Notice of motion was issued in the present petition on 17th May 2018. It was only on 19th December, 2019 that a reply was filed on behalf of Respondent Nos. 1 to 3.

7. The admitted position is that the impugned letter dated 11th August, 2017 of Respondent No.1 declining the request of the Petitioners is a non-speaking one. Mr. Deepak Sabherwal, learned counsel for the Respondents refers to the reply filed, which simply states that there is no policy for treating the aforementioned litigation period as a “zero period”.

8. The fact of the matter is that the inability of the Respondents to consider the building plan submitted by the Petitioners for the purpose of sanction was on account of the status quo order passed by this Court, which continued for a long period of nearly 18 years. The Petitioners obviously cannot be made to suffer on account of such status quo order passed by this Court, when the settled position is that all such interim orders are subject to the outcome of the writ petition. In this case, the writ petition in which such interim order was passed, was ultimately dismissed by this Court. In other words, the challenge to the allotment in favour of the Petitioners was negated.

9. Having emerged successful in the litigation instituted against them, the Petitioners were justified in their request that the long period of litigation be treated as “zero period” for the purpose of sanctioning their building plan, the payment of the extension fee as well as the period during which they were supposed to complete the construction of the building. In other words, the Court accepts the plea of the Petitioners that their request to the Respondent ought to have been accepted in the facts and circumstances of the case.

10. For all the aforementioned reasons, the court quashes the letter dated 11th August, 2017 issued by the Chief Administrator HUDA and directs the Estate Officer, HUDA to now examine the building plan submitted by the Petitioners and pass appropriate orders in accordance with law, not later than eight weeks from today. The Respondents will also appropriately extend the time for the Petitioners to deposit the extension fee and complete the construction of the building in the plot in question .

11. The writ petition is disposed of in the above terms.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

27th October, 2020
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