

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

**CWP-1348-2020 (O&M)
Date of decision: 18.01.2021**

Diwan Singh Chauhan

....Petitioner

Versus

State of Haryana and others

....Respondents

**CORAM:HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Prashant Singh Chauhan, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. AG, Haryana.

AJAY TEWARI, J. (ORAL)

1. This petition has been filed against the action of the respondents in demanding Rs.3,65,967/- plus interest @ 12% per annum with respect to 6th year extension.

2. The brief facts are that the petitioner was allotted industrial plot on 21st January, 2010. As per the same, he had to implement the project within the prescribed period of three years otherwise, he would have to seek extension. Since the petitioner could not complete the project within the aforesaid period of three years, he had moved an application for 1st year paid extension on 16.04.2013 which was allowed and six months extension was granted after depositing Rs.40/- per square meter along with interest. At the end of those six months, since the project was still not complete, the petitioner was called upon to pay extension charges @ Rs.80/- per square meter plus service tax along with interest which was also deposited by the petitioner again on 16.07.2014. Extension was granted for six months uptill 20.01.2015 again because in between general extension had been granted. On expiry of 1st year paid extension, petitioner had applied for 2nd paid extension for the

period from 21.01.2015 to 20.01.2016 and deposited the money demanded @ 80/- per square meter which was allowed. Thereafter, the petitioner applied for 3rd paid extension for the period from 21.01.2016 to 20.01.2017 and deposited money at the demanded rate of Rs.150/- per square meter along with interest and extension was granted for one year. On 19th January, 2017, the petitioner applied for 4th paid extension at the demanded rate of Rs.225/- per square meter along with interest etc. This amount was deposited. On this occasion, the respondents did not demand double the amount which had been deposited earlier but reduced it to 1.5 times.

3. In the meantime, the Rules were amended and as per the amended Rule i.e. Clause 5.5 of the Estate Management Procedures, 2015, it was stipulated that henceforth the extension fee would be deposited by charging fee equivalent to double the fee applicable for the previous year. After this amendment, the petitioner applied for 5th paid extension @ Rs.450/- per square meter (double the fee which had been charged on the previous date) and extension was granted to the present petitioner.

4. The dispute arose when the petitioner applied for 6th paid extension (for the year 2019). He claimed that as per the Rules, on this occasion, he was liable to pay Rs.900/- per square meter. However, the respondents insisted that the petitioner should pay fee @ Rs.1200/- per square meter.

5. Learned counsel for the respondents having admitted all these factual aspects is not in a position to defend the enhanced claim merely by claiming that the benefit from Rs.150/- per square meter to Rs.225/- per square meter was a one time benefit because this would not alter the fact that on the subsequent occasion, the petitioner had paid Rs.450/- square meter which was accepted by the respondents without any demur and therefore, now

they cannot turn around and say that even on the previous occasion, the petitioner should have deposited Rs.600/- per square meter and that he would have to deposit Rs.1200/- per square meter on this occasion.

6. Consequently, we have no hesitation in setting aside the impugned demand notices and directing the respondents to accept the fees @ Rs.900/- per square meter along with applicable interest etc.

7. Learned counsel for the petitioner has however, argued that during the pendency of this petition, the period of extension had expired on 20.01.2020 even though the building of the petitioner was complete before that date and consequently, it is his contention that he had to be granted occupation certificate with insisting that he apply for 7th paid extension.

8. We find it to be correct and consequently direct that if the building of the petitioner is complete, the occupation certificate should be granted without any further claim for extension. Let petitioner now apply again within 15 days and the whole case be processed within three months thereafter. The impugned demand notice/letter are set aside and the respondents are directed to accept the fees @ Rs.900/- per square meter along with applicable interest etc.

9. Petition stands allowed.

10. Since the main case has been decided, the pending miscellaneous application(s), if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

18.01.2021

m. sharma

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No