

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

CWP No.15671 of 2021 (O&M)

Date of Decision:16.08.2021

Greater Mohali Area Development Authority

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE VIVEK PURI**

Present:- Mr. Vaibhav Narang, Advocate for the petitioner.

TEJINDER SINGH DHINDSA J. (Oral)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

The Greater Mohali Area Development Authority (hereinafter to be referred to as the 'Authority') has filed the instant petition assailing the order dated 20.12.2016 (Annexure P-10) passed by the Special Secretary, Housing and Urban Development, Government of Punjab-cum-Revisional Authority under the Punjab Regional and Town Planning and Development Act 1995.

Further challenge is to the order dated 10.12.2019 (Annexure P-12) passed by the afore-noticed Revisional Authority, declining a review application preferred by the Authority against the order dated 20.12.2016 (Annexure P-10).

Brief facts emanating from the pleadings on record are that

SCO No.656, Sector 70, SAS Nagar, Mohali, was put to auction and private respondents No.4 to 6 herein had submitted the highest bid for an amount of Rs.52,40,000/-. 25 per cent of the total sale consideration amount i.e. Rs.13.10,000/- was deposited and allotment letter in their names was issued vide memo dated 03.10.2001. Apparently, the auction purchasers defaulted in payment of the balance amount and on account of which the Estate Officer resumed the SCO site vide order dated 25.11.2005.

Aggrieved of the order of resumption, private respondents herein filed a statutory appeal before the Additional Chief Administrator GAMADA-cum-Appellate Authority. Vide order dated 17.02.2011 (Anenxure P-9) the appeal was allowed in the following terms:-

“From the contentions raised by the concerned parties during the course of hearing and from perusal of the record and consideration of the matter and from the perusal of the impugned order it is clear that Estate Officer has given no opportunity to appellants to explain their position and has done the one sided proceeding and passed the impugned order. Now before the undersigned appellant has shown their willingness to deposit the pending payment along with interest penalty. The counsel for the appellant during the hearing has established the fact by relying upon different decisions of Hon'ble Punjab and Haryana High court, i find it appropriate that if the appellant is ready to deposit the due amount along with penal interest then the present appeal may be allowed. After considering all the circumstances the impugned order is set aside and this appeal is allowed on the condition that Estate Officer, GMADA, Mohali from the 15 days from the receipt of this Order would inform the appellants in writing the total amount payable against the above said site till 31.03.2011 as per the conditions of allotment letter/policy, alongwith the penal

interest and after said letter from the Estate Officer the appellants would deposit the amount within 30 days with the Estate Office. If appellant would deposit the due amount within the stipulated time then the allotment of the site would be restored in favour of appellant otherwise, the forfeiture order shall continue”.

Pronounced

Dated: 17.02.2011

*Sd/-
Additional Chief Administrator
GMADA, Mohali*

The Authority thereafter preferred a Revision Petition under Section 45 (8) of the Punjab Regional & Town Planning and Development Act 1995 (hereinafter to be referred to as the Act) and which stands dismissed vide order dated 20.12.2016 (Annexure P-10). A review petition preferred by the Authority also stands declined vide order dated 10.12.2019 (Annexure P-12).

It is against such brief factual backdrop that the orders aforementioned at Annexure P-10 and P-12 have been put to challenge in the instant petition.

Counsel for the Authority has argued that the order dated 20.12.2016 passed by the Revisional Authority whereby the revision petition has been dismissed is solely on the ground of delay and the merits of the case have not been considered. It is submitted that the case of the Authority otherwise was good on merits and as such the instant petition be allowed, the order passed by the Revisional Authority be set aside and the matter be remanded back to the Revisional Authority for deciding the case on merits.

Further urged that even the review petition preferred by the Authority has been dismissed on the technical ground of not being maintainable. Counsel is at pains to urge that the order dated 17.02.2011 passed by the Appellate Authority setting aside the order of resumption was erroneous inasmuch as the factual premise of multiple opportunities having been offered to the private respondents to comply with the terms and conditions of allotment of the site in question had been over-looked. Further contended that if the impugned orders were permitted to stand, the Authority would suffer a huge financial loss. Yet another submission raised is that the Courts should be liberal in condoning the delay particularly where public interest and public money is involved.

We have heard counsel at length and have perused the pleadings on record minutely.

The short question that arise for consideration is whether the Revisional Authority has rightfully dismissed the revision petition preferred by the Authority on the ground of delay?

Undisputedly, against the order of resumption passed by the Estate Officer, the private respondents herein had preferred a statutory appeal before the Additional Chief Administrator, Greater Mohali Area Development Authority, Mohali and such appeal was allowed vide order dated 17.02.2011 (Annexure P-9) setting aside the resumption order. Order of the Appellate Authority was passed in the presence of the authorized representative of the authority. The revision petition was preferred by the authority after a delay of 1307 days i.e. on 20.11.2014. Same stands dismissed on the ground of delay vide impugned order dated 20.12.2016 (Annexure P-10). Authority thereafter filed a review petition

which was declined on 10.12.2019 (Annexure P-12) taking a view that the same was not maintainable. Instant petition has been filed in the month of July 2021.

It is by now well settled that the object for fixing time limit for litigation is based on public policy fixing a life span for legal remedy for the purpose of general welfare. The Apex Court in **Rajender Singh Vs. Santa Singh (1973) 2 SCC** had observed ***“The object of law and limitation is to prevent disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches”.***

In ***Pundlik Jalam Patil (Dead) by LRs. vs. Executive Engineer Jalgaon (2008) 17 SCC 448*** the Apex Court had observed as follows:-

“It is true when the State and its instrumentalities are the applicants seeking condonation of delay they may be entitled to certain amount of latitude but the law of limitation is same for citizen and for Governmental authorities. The [Limitation Act](#) does not provide for a different period to the government in filing appeals or applications as such. It would be a different matter where the Government makes out a case where public interest was shown to have suffered owing to acts of fraud or collusion on the part of its officers or agents and where the officers were clearly at cross purposes with it. In a given case if any such facts are pleaded or proved they cannot be excluded from consideration and those factors may go into the judicial verdict.

In **Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai (2012) 5 SCC 157**, the Hon'ble Supreme Court held as follows:-

“In cases involving the State and its

agencies/instrumentalities, the Court can take note of the fact that sufficient time is taken in the decision making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and/or its agencies / instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest”.

In the present case the Authority had filed the revision petition after a delay of 1307 days as opposed to the limitation period prescribed of 30 days. In the instant petition there is not even a whisper justifying such gross and inordinate delay. Perusal of the impugned order dated 20.12.2016 passed by the Revisional Authority at Annexure P-10 reveals that an application for condonation of delay had been filed mentioning that *“GMADA was under impression that the counsel had filed the Revision Petition and the petition was filed after receiving an email from counsel that no-one had come to him for getting the revision petition prepared.”*

The afore-noticed ground taken by the Authority seeking condonation of delay would under no stretch of imagination be construed as sufficient cause.

We would have no hesitation in observing that the Authority was guilty of absolute lethargy as also negligence in not having followed up the file as regards filing of the revision petition. As such we do not find any patent infirmity in the view taken by the Revisional Authority in having dismissed the revision petition on the ground of delay.

The sorry state of affairs did not end there. The revision

petition was dismissed on 22.12.2016. In the year 2018 the Authority preferred a review petition. The property in question was governed by the provisions of the Punjab Regional & Town Planning and Development Act 1995 in which there was no provision of review and such aspect was conceded by counsel representing the Authority as has been observed even in the order dated 10.12.2019 at Annexure P-12 while declining the review petition.

Essentially, by way of the instant petition the Authority wishes to rake up the matter pertaining to a resumption order dated 29.11.2005 and which had been set aside by the Appellate Authority way back in February 2011. We are not inclined to accept such prayer as it would tantamount to unsettling settled matters.

We find that there is no ground made out, that would warrant interference in the impugned orders at Annexures P-10 and P-12 in exercise of our writ jurisdiction under Article 226 of the Constitution of India.

Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

(VIVEK PURI)
JUDGE

August 16, 2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No