

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

CWP-25591-2021

Date of decision : 16.12.2021

Housing Development Finance Limited

....Petitioner

V/s

State of Punjab and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Shekhar Verma, Advocate for the petitioner.

Mr. Pankaj Gupta, Additional Advocate General, Punjab.

G.S. SANDHAWALIA, J. (ORAL)

Present petition has been filed by the Financial Institution under Article 226 of the Constitution of India seeking a direction to respondents No.3 & 4 to accept the representation dated 28.08.2021 (Annexure P-12) and consider the same to be report under section 34 of the Punjab Land Revenue Act, 1887. Prayer is also made to record mutation and register the same with regard to sale certificate issued by the petitioner in favour of proforma respondents No.9 and 10. Further issuance of a writ of mandamus directing respondents No.2 and 3 to register the sale certificate dated 02.01.2009 and accept the necessary charges/stamp duty from the Tender Purchasers in accordance with law, is sought.

Counsel has brought to our notice the report dated 28.09.2021 (Annexure P-13) whereby the revenue officer i.e. Halqa Patwari (respondent no. 4) has given a report that the ownership has been entered in the name of Kanwaljit Kaur (respondent No.8). The report dated 28.09.2021 (Annexure P-13) is sought to be enforced and approved for registration of sale-deed dated 02.01.2009 which is issued in favour of respondents No.9 and 10.

In our considered opinion, petitioner has an efficacious alternate remedy to approach the Collector under section 13 of the Punjab Land Revenue Act, 1887, which provides that an appeal shall lie from an original or appellate order by the Revenue Officer when the same is passed by an Assistant Collector of either grade. The grouse of the Financial Institution is that the application which is submitted to Tehsildar-cum-Sub Registrar, Kharar (respondent No.3) had been returned in original on account of the report by Patwari without any further action.

The extraordinary writ jurisdiction of this Court cannot be invoked, when an alternate and efficacious remedy is available to the petitioner, keeping in view the law laid down by the Apex Court in ***United Bank of India Vs. Satyawati Tondon and others, (2010) 8 SCC 110***. It was observed therein that it was a self imposed restraint and the alternative remedy was a rule of discretion and not one of compulsion. The principles laid down read as under:-

“30. The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

- (a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;*
- (b) the petition reveals all material facts;*
- (c) the petitioner has any alternative or effective remedy for the resolution of the dispute;*
- (d) person invoking the jurisdiction is guilty of unexplained delay and laches;*
- (e) ex facie barred by any laws of limitation;*
- (f) grant of relief is against public policy or barred by any valid law; and host of other factors.”*

Keeping in view the mandate of Section 34 of the Punjab Land Revenue Act, 1887 which provides that the person acquiring any right in an estate as a land owner has to report his acquisition of the right to the Patwari of the Estate and an entry is to be made under sub-section 3 of Section 34 and action has to be taken under Section 36, if there is any dispute as such. It is expected that on the appropriate application being filed before respondent No. 2, he shall take positive action after hearing all the necessary parties.

Writ petition stands disposed of, with the aforesaid liberty.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

December 16, 2021

Ajay

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No