

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

Civil Writ Petition No.9311 of 2022(O&M)

Date of Decision: October 14, 2022

Krishna Nand Pandey and another

...Petitioners

Versus

State of Haryana through Additional Chief Secretary
to Government of Haryana, Department of Town
and Country Planning, Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
HON'BLE MR. JUSTICE LALIT BATRA**

--

Present: - Mr.Amit Jhanji, Senior Advocate assisted by
Ms.Eliza Gupta and Mr.Sachit Singla, Advocates
for the petitioner.

Ms.Tanisha Peshawaria, DAG, Haryana.

Mr.Chetan Mittal, Senior Advocate assisted by
Mr.Mayank Aggarwal, Advocate for respondent No.4.

-

HARINDER SINGH SIDHU, J.

The petitioners seek quashing of order dated 07.04.2022
(Annexure P-24) passed by respondent No.1 - Additional Chief Secretary to
Government of Haryana, Department of Town and Country Planning,
Haryana. Vide that order, the earlier order dated 18.11.2021 (Annexure P-
21) was modified and it was directed that only 43K-01M be kept frozen.
The rest of the licenced land was de-frozen for the purpose of sale/transfer

and the licensee - respondent No.4 was granted liberty to undertake transactions.

The petitioners claim to be owners in possession of land to the extent of 398/7749 and 590/7749 share i.e. 05 Kanal 10 Marlas in the total land measuring 43 Kanal 01 Marla comprised in Khasra No.11//23/2 (3-4), 24(8-0), 25(7-12), 14//1/1(4-15), 15//3/2(2-4), 4(7-7), 5(6-16), 6/1 (3-3) situated in village Sunderpur, Tehsil Thanesar, District Kurukshetra. This land was purchased by them from Raj Kumar s/o Maya Devi d/o Bhima vide registered sale-deed dated 30.06.2008. Their grievance is that without verifying the ownership details of the land, Licence No.210 of 2007 was granted to M/s Sumitra Builders and Developers Pvt. Ltd. - respondent No.4 to develop a residential plotted colony. The erstwhile owner from whom the petitioners had purchased the land was not a party in the collaboration agreement entered between the land owners and the builder – respondent No.4. The land of the petitioners has wrongly been included in the licenced land and is being illegally utilised by respondent No.4 which has sold the land by carving out plots.

The petitioners submitted an application before the Director, Town and Country Planning, Haryana – respondent No.2 for cancellation of the licence issued to respondent No.4.

The Director, Town and Country Planning in his order dated 13.04.2021 noticed that Licence No.210 had been granted on the basis of revenue record submitted by the applicant Company M/s Sumitra Builders Pvt. Ltd. at the time of grant of licence. After the grant of licence, the

complainant-petitioners submitted documents as per which they are owners of 05 K 10 M in Khewat area of 43 K 01 M, but due to non-submission of partition of land the exact location of the land of the complainant cannot be ascertained. The Developer was directed to freeze the chunk of land measuring 05 K 10 M where no Third Party rights have been created till the partition of land. It was directed that the issue regarding partition of land be resolved within 30 days. The Developer was directed to submit a copy of the layout plan where the freezed area was duly earmarked.

The petitioners filed an appeal under Section 19 of the Haryana Development and Regulation of Urban Areas Act 1975 before the Additional Chief Secretary, Town and Country Planning – respondent No.1 praying for cancellation of the licence. They also assailed the order dated 13.04.2021. Respondent No.1 passed an interim order dated 18.11.2021 directing that further sale of plots by the licensee shall remain stayed. The unsold area as on that day was directed to remain frozen till the next date of hearing i.e. 19.01.2022.

The matter was thereafter taken up only on 07.04.2022, wherein, the order dated 18.11.2021 was modified to the extent that 43K 01M be kept frozen. The rest of the licenced land was defreezed for the purpose of sale/transfer. The licensee - respondent No.4 was given liberty to undertake transactions in accordance with law.

The petitioners have assailed the aforesaid order. It is contended that respondent No.4 has already sold most of the land in the block comprised in 43 K 01 M. The ends of justice required that respondent

No.4 be restrained from creating any further third party rights over the left over licenced land. The order was passed without hearing the petitioners.

When this petition came up for hearing on 20.05.2022 the matter was adjourned to explore the possibility of a settlement between the petitioners and respondent No.4. The matter was again adjourned to 29.07.2022 and 18.08.2022 for the same purpose. However, on 29.08.2022, Ld. Senior Counsel for the petitioners informed that no settlement could be arrived at between the parties and that the case be heard and decided on merits.

Having heard Ld. Counsel for the parties, we find no ground to interfere with the impugned order.

The Director, Town and Country Planning in his order dated 13.04.2021 had noticed that due to non partition of land the exact location of the land of the complainant/petitioners cannot be ascertained. It was directed that the issue regarding partition of land be resolved within 30 days.

Mr.Chetan Mittal, Ld. Senior Counsel for respondent No.4 has pointed out that the petitioners had instituted a suit for partition, which was subsequently withdrawn on 10.03.2021 with liberty to file a fresh suit on the same cause of action. No fresh suit has been instituted.

It is inexplicable as to why the petitioners are not pursuing their case for partition.

The matter is pending before respondent No.1. After the passing of the impugned order various options to resolve the dispute have been offered by respondent No.4 for consideration of the petitioners.

However, the same were not acceptable to the petitioners. Respondent No.1 is cognizant of the grievance and claim of the petitioners. The case has not been finally disposed of by respondent No.1. There is no justification to entertain the present petition, at this stage.

Disposed of.

(HARINDER SINGH SIDHU)
JUDGE

October 14, 2022

(LALIT BATRA)
JUDGE

gian

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No