

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

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**Civil Writ Petition No.10570 of 2021 (O&M)
Decided on : 06.07.2022**

Smt. Kulwant Kaur

... Petitioner

Versus

The Adviser to the Administrator, U.T. Secretariat, Chandigarh and others

... Respondents

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

Present: Mr. Vikas Jain, Advocate for the petitioner.

Mr. Namit Kumar, Advocate
for respondents No.1 & 2-U.T. Chandigarh.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the order dated 21.01.2020 (Annexure P-13) whereby the revision petition filed by the petitioner was dismissed by respondent No.1 primarily on the ground of delay of more than 24 years and 8 months. Thus, while upholding the order of resumption dated 27.12.1983 (Annexure P-3), it was noticed that there was a conditional order, whereby the appeal had been allowed on 21.03.1995 (Annexure P-7) and the petitioner having failed to comply with the said order, the revision petition was dismissed.

The present writ petition has also been filed on 27.05.2021 after a period of almost one and half years after the dismissal of the revision petition.

Counsel has tried to convince us that the extreme order of

resumption was not justified, as it was only on the violation of the building plan and active steps having been taken whereby the violations have been removed. He has sought to impress upon us that there should be interference under the extra-ordinary jurisdiction of the writ Court while referring to the inspection report dated 23.05.2019 (Annexure P-12) regarding Plot No.337, Industrial Arera, Phase-I, Chandigarh.

A perusal of the paper-book would go on to show that site in question was allotted on 17.07.1967 to M/s Everest Industries proprietor of which was Saudagar Singh, the husband of the present petitioner. The deed of conveyance was thereafter executed in favour of the said firm on 03.10.1968/13.11.1968 (Annexure P-2). The Estate Officer noticed that there were violations and there were material changes in the construction which had been raised and it was not in accordance with the sanctioned plan. Thus, in pursuance to the show cause notice dated 19.04.1982 he resumed the same in the presence of the original allottee, who is stated to have died thereafter on 30.12.1989 (Annexure P-4). The request for transfer of the plot in favour of the petitioner was declined on 03.08.1990 (Annexure P-6). The appeal was partly allowed by the Chief Administrator against the resumption order with a condition that the violations be set right, vide order dated 21.03.1995 (Annexure P-7). Relevant portion of the said order reads as under:-

“5. After hearing the parties and going through the inspection report as well as the submissions made before me

am convinced that the appellant shall be in a position to set right the violations in case an opportunity is given. Consequently I set aside the impugned order, restore the site to the owner subject to the condition that the violation which are compoundable are compounded, those removable are removed and forfeiture of 10% is paid by the owner within six months recknoable from despatch of this order, failing which the order of the Estate Officer shall become operative.”

Apparently there were disputes within the family as there is also an order of the Additional Civil Judge (Sr. Division), Chandigarh dated 21.09.1996 (Annexure P-8) and the suit was disposed off in accordance with the compromise deed. Admittedly another application was filed for transfer of the ownership, which was again declined on 23.06.2016 (Annexure P-10) by the Estate Office.

The family settlement dated 15.09.2016 (Annexure P-9) which has been placed on record goes on to show that the plot in question was to go to Manjit Singh, one of the sons of the petitioner. Relevant part of the family settlement reads as under:-

“1. That the Plot NO.337, Industrial Area, Phase-1, Chandigarh, measuring 1 Kanal has come to the share of Manjit Singh (third party) son of late Saudagar Singh being the younger son of Late Saudagar Singh. Manjit Singh (third party) shall have the 100% share in Plot no.337, Industrial Area, Phase-I, Chandigarh.

2. That Plot No.D-2, Industrial Estate, Phase-1, SAS Nagar, Mohali measuring 2-1/2 Kanal has come to the share of Amarjit Singh (second party) being the elder son of Late Saudagar Singh qua which the Amarjit Singh (second party) is already owner in possession of 80% of the

share and 20% share which is in the name of Kulwant Kaur (first party), the second party will initiate the process of transferring the said 20% share in his name and Kulwant Kaur (first party) shall be bound to give affidavit/statement/evidence before the concerned authority for getting her 20% share in Plot No.D-2 Industrial Estate, Phase-1, Mohali & Firm M/s Cheema Industries in the name of Amarjit Singh i.e. this 20% share will be owned by Amarjit Singh i.e. the second party.

3. That as the Plot No.337, Industrial Area, Phase-1, Chandigarh was resumed by the Estate Officer, Chandigarh vide order dated 27.12.1983, therefore, now Sh. Manjit Singh (Third Party) shall initiate proceedings of restoration and transfer of the said resumed plot in his name and all the parties shall be bound to give affidavit/statement/evidence before the Ld. Estate Officer Chandigarh for the restoration of the Plot No.337, Industrial Area, Phase-1, Chandigarh as and when required.

4. That Kulwant Kaur (first party) shall be looked after by both the sons Amarjit Singh (second party) and Manjit Singh (Third Party) and both sons will pay a sum of Rs.6000 (Six Thousand) per month i.e. Rs.3000 each to the mother. This amount however will be increased at the rate of 5% per annum in the month September every year. Both the parties will transfer this fixed amount directly in bank account of their mother latest by 20th day of each month in the bank account bearing account no.12852193000021, Oriental Bank of Commerce, Industrial Area, Phase-II, Chandigarh. If any major accident of ailment happens to Kulwant Kaur (first party) during her lifetime, then both Amarjit Singh (second party) and Manjit Singh (Third Party) shall be liable to pay all the expenses for the treatment of ailment in equal share.

5. That Smt. Kulwant Kaur i.e. first party does not

wish to claim any share in any of the properties of Late Saudagar Singh and Kulwant Kaur.

In witness whereof all the parties have signed on this family settlement on this 15th day of September 2016, in the presence of the marginal witnesses.”

It was, thereafter, in the year 2019 the revision petition was filed before the respondent No.1, which has now been dismissed as noticed above. The argument that the violations had been removed within the prescribed as per the conditional order in appeal is not liable to be accepted as the inspection report which has now been placed on record would go on to show that it was only signed, which is noting in the file and initialed dated 23.05.2019. Nothing has been brought on record to show that after passing of the order dated 21.03.1995 within six months any application had been filed to the authorities in question bringing to their notice that the conditional order had been complied with. It is at this belated stage after 24 years as noticed the revision petition was filed and, therefore, we do not find any infirmity in the said order, as the petitioner had been given adequate opportunity to save the property by removing all the violations which had been made on it.

Another reason we do not wish to interfere is that apparently the *locus-standi* of the petitioner to file the writ petitioner is also doubted, in view of the family settlement which has been arrived at. The same shows that the interest as such is of son Manjit Singh in the property which *inter se* was settled and to go to him, who has now been arrayed as respondent No.4 before this Court. He has not preferred to join hands

with his mother. It is also to be noticed that Manjit Singh had also filed an appeal against the order dated 23.06.2016 (Annexure P-10) before the Chief Administrator, whereby the claim of the mother as such had been rejected for transferring of the plot in question. The appeal was dismissed as withdrawn on 02.09.2019 (Annexure P-29).

The argument raised that in certain other cases this Court has condoned the inordinate delay in similar circumstances is not liable to be accepted as facts and circumstances of each case have to be seen and the conduct of the litigant. The argument that the revised plans could not be submitted as the property stood resumed is without any basis as nothing has been brought on record to show that any application was filed within a period of six months or in the close proximity after the appeal was decided to show that the violations have been removed. Neither any proof of payment was given or that an application had been filed to deposit the 10% forfeiture amount which had been ordered by the Appellate Authority.

In such circumstances, keeping in view the inordinate delay in filing the revision petition against an conditional order which was in favour of the petitioner, no case is made out to interfere in the order dismissing the revision.

We are also anguished by the conduct of the Estate Officer and the Chandigarh Administration which has led this litigation to linger on, in spite of the fact that a conditional order was passed on 21.03.1995

(Annexure P-7). No steps have been taken to take possession of the property for the last 27 years and the allottees have been permitted to continue in possession at the cost of public exchequer, whereas this property could have been put to re-auction to fill up the coffers of the Union of India/Administration. Resultantly, the respondent No.1 shall take steps to fix the responsibility of the concerned official and submit a report to the Registrar (General) of this Court.

Resultantly, there is no merit in the present writ petition and the same is dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

July 06, 2022
Naveen

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No