

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

203

CWP No.36206 of 2019 (O&M)
DATE OF DECISION: 12th MAY, 2022

Chairman, Chandigarh Housing Board and another

.... Petitioners

Versus

Abhijeet Singla and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Ashish Rawal, Advocate and
Ms. Gursimran Kaur, Advocate,
for the petitioners.

Mr. Navneet Jindal, Advocate for
Mr. Sudesh Kumar Pandey, Advocate,
for respondent Nos.1 and 2.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

This is a petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari for quashing the award dated 27.05.2019 (Annexure P-1), passed by respondent No.3-Permanent Lok Adalat (Public Utility Services), U.T. Chandigarh under Section 22 (C)(8) of the Legal Services Authorities Act, 1987, with a further prayer that the operation/execution of impugned award dated 27.05.2019 (Annexure P-1) be stayed during the pendency of the present petition.

A perusal of the impugned award passed by the Permanent Lok Adalat shows that the adjudication before the Permanent Lok Adalat has been qua the issuance of letter dated 10.05.2013 by the Chandigarh Administration putting on hold the process of conversion from lease hold

to free hold and its effect on petitioner. Furthermore, the Permanent Lok Adalat has passed the award, subject to the outcome of the judgment of Hon'ble the Supreme Court in an identical case, which was mentioned as ***Estate Officer and another Versus Charanjit Kaur, Civil Appeal No.4964 of 2021 (arising out of SLP (Civil) No.5051 of 2018)***. Now, the said judgment has been pronounced by Hon'ble the Supreme Court on 07.09.2021 and the same has been decided against the allottee Charanjit Kaur on the ground that the transaction between her and the Chandigarh Administration was not within the scope of 'service', therefore, the Consumer Forum has no jurisdiction in the matter. Hence, the basis upon which the Permanent Lok Adalat had proceeded, has been taken away by the judgment of Hon'ble the Supreme Court in the case of ***Charanjit Kaur (supra)***.

However, on the aspect of applicability of letter dated 10.05.2013 issued by the Chandigarh Administration, Hon'ble the Supreme Court has observed as under:-

*“23. Mr. Goel has argued that there cannot be any negative equality as even if some sites have been converted in contravention of the decision communicated on 10.05.2013, it would not confer any enforceable right in favour of the allottees. Reference was made to **Chandigarh Administration v. Jagjit Singh**¹⁵. We do not find any merit in the argument of Mr. Goel. On the date when the letter was issued by the administration on 10.05.2013, the statutory 1996 Rules were in force. Such Rules were kept in abeyance on the basis of communication on behalf of the Finance Secretary to the Estate Officer. Such communication cannot be countenanced. The*

statutory rules could not be put to hold because the issue of revision of rates of conversion was under consideration of the Administration. Even after the said letter the rates were fixed only in 2017. In the face of valid statutory Rules, an administrative decision cannot be sustained.”

The above said observations of Hon'ble the Supreme Court amply clarify that the letter dated 10.05.2013 issued by the Chandigarh Administration could not have been pleaded by the petitioner against the applicant-original allottee who had applied for conversion from lease hold to free hold before issuance of the said letter. However, the fact remains that the original allottee was communicated certain objections by the petitioner-Housing Board on 06.08.2013 (Annexure P-8) and the objections so raised by the petitioner, included the objections other than the issue of charges; which was the subject-matter of letter dated 10.05.2013. The said objections were not removed by the allottee. Therefore, he had already forfeited his right to get conversion of property from lease hold to free hold. Thereafter, the original allottee died on 03.09.2014. The widow of the original allottee transferred the lease hold rights in the name of respondents No.1 and 2 and they acquired the lease hold rights only on 01.08.2016. Since, respondents No.1 and 2 were transferred only lease rights, therefore, their status would be only of a transferee of lease hold rights. Whatever other status the predecessor-in-interest was having, that stood abated with his death and on account of not responding to the objections raised by the petitioner-Board; for about one year. Instead of complying with the objections raised by the petitioner-Board, the said allottee had chosen to get rid on the property

by transferring the same. Hence, the respondents No.1 and 2 obtained their independent status as 'lease hold rights transferees' qua the property. Although the widow of the original allottee may be entitled to get refund of the conversion charges deposited by her husband, if any, if not prohibited by any other provision, however, the respondents No.1 and 2 cannot draw any benefit out of that deposit, if any. It is not in dispute that respondents No.1 and 2 have never applied for conversion of the property from lease hold to free hold by making any application under their own signatures and in their own capacity as transferees of lease hold rights. Therefore, the petitioner-Board cannot be held at fault in not converting the property from lease hold to free hold. To that extent, the order passed by the Permanent Lok Adalat is liable to be held as non-sustainable.

In view of the above, the present petition is allowed and the impugned order dated 27.05.2019 passed by the Permanent Lok Adalat is set aside. However, the present order shall not be taken as precluding respondents No.1 and 2 from moving an independent application for conversion of the property from lease hold to free hold in their own capacity, but in accordance with law. The respondents No.1 and 2 may, if they so desire, apply for the same and the petitioner-Board shall be liable to consider the same, in accordance with law.

The pending miscellaneous application, if any, is also disposed of as such.

12th MAY, 2022

'sandeep'

Whether speaking/reasoned:

Whether Reportable:

**(RAJBIR SEHRAWAT)
JUDGE**

Yes

Yes