

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

(105)

Neutral Citation No.2023:PHHC:109860-DB

CWP-5047-2023

Decided on : 23.08.2023

Jai Parkash Gupta

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present:- Mr. Amandeep Singh Talwar, Advocate for the petitioner.

G.S. Sandhawalia, J.(Oral)

Challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the order dated 13.01.2022 (Annexure P-19) whereby respondent No.1 dismissed the appeal of the petitioner which was against the revised layout plan which has been sanctioned by respondent No.2 in pursuance of License No.103 dated 03.12.2013 in favour of respondent Nos.4 & 5.

2. The claim of the petitioner is that the same was passed in utter disregard to the principles of natural justice and without inviting objection from the petitioner and the other villa/plot holders and to illegally favour the private colonizers in flagrant violation of the rules of law. The construction of commercial booths in front of Villa Nos.18 to 31 was thus the bone of contention which had been raised.

3. It is not disputed that the petitioner had filed **CWP No.4764 of 2015** titled as ‘Jai Parkash Gupta Vs. State of Haryana and others’

which was decided on 02.12.2016 (Annexure P-15) alongwith **CWP No.12210 of 2013** titled as ‘**DLF Park Place Residents Welfare Association Vs. The Director General, Town and Country Planning (Haryana) and others**’. Vide the detailed order dated 02.12.2016 (Annexure P-15) various issues were decided and the contentions raised by the counsel for the petitioner and the fact that he had earlier approached the District Consumer Disputes Redressal Forum. It was also noticed that the petitioner had been given liberty to approach a competent Court and thus the writ petition had been filed. It was noticed that the area which has now been utilized was apparently marked as ‘UD’ (Undetermined) and it was the case of the petitioner that he had paid preferential location charges and, therefore the building up of the said area was not permissible. The grant of license in respect of an additional area of 6.125 acres and the sanction of the revised layout plan was claimed to be *void ab initio* and, therefore, it could not be amended to the prejudice of the parties who had already been allotted the plots.

4. The Division Bench did not agree as such to that extent that once a layout plan had been sanctioned it cannot be amended in any manner and rejected the contention raised by the counsel for the petitioner. The said portion rejecting the argument raised by counsel for the petitioner reads as under:-

“150. Mr. Bhan’s contention that a layout plan once sanctioned cannot be amended in any manner whatsoever is, therefore, rejected.”

5. Mr. Talwar has vehemently submitted that there were other issues also and he had a right to raise objections which had not been

decided and had been left open. He has referred to paragraph No.154 of the said order to that extent, which reads as under:-

“154. Mr. Amandeep Singh Talwar, learned counsel, who addressed us in rejoinder, on this point on behalf of the petitioners, furnished a complete answer to Mr. Behl’s argument. He relied upon the following facts in this regard. The construction had started in the year 2013. On 08.10.2013 the petitioner filed a consumer complaint. At that time the petitioner was not aware of the revised layout plan. The respondents referred to the same only in those proceedings. On 11.02.2014 the petitioners filed a representation against the same. On 27.05.2014 the consumer complaint was withdrawn with liberty to file appropriate proceedings. To date there is no decision on the petitioner’s representation containing their objections. On 25.05.2015, the revised layout plan was approved in principle and subject to further development. In fact the construction commenced even before the finalization of the plan. The revised plan was finalized on 27.01.2016. The petitioner’s objection has not even been decided. The contention that the petitioners are not entitled to raise their objections in this petition is, therefore, rejected.”

6. During the course of arguments it also transpires that construction has already been raised upon the portion in front of the house of the petitioner and same is being used for the purpose of Club and Commercial space. The Division Bench had also relegated the petitioner to get his rights adjudicated on merits by availing any alternate remedy and also to approach the appropriate authority while disposing of the writ petition, which read as under:-

“185. The petitioner in CWP No.4764 of 2015 would be entitled to get his rights adjudicated on merits by availing any alternate remedy.

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188 (v) The petitioner in CWP No.4764 of 2015 shall be entitled to have his rights on merits adjudicated in accordance with law before any appropriate authority/Forum/Tribunal or Court.”

7. Apparently there was no stay regarding the construction aspect during the earlier proceedings which were pending over a decade since the first writ petition was filed in the year 2013. The Appellate Authority has also kept this fact in mind while relegating the petitioner to approach the appropriate consumer forum for redressal of his grievances.

8. Resultantly, keeping in view the background of the case we are of the considered opinion that since the matter has already been adjudicated upon, the relegation to the Consumer Forum to which the petitioner had already approached is an appropriate order in the facts and circumstances. The construction has already been raised in the area and the argument as such that it could not be utilized has been rejected. The petitioner if so wishes can thus approach the Consumer Forum. The damages if any which are liable to be paid to him on account of the projecting whether the area was shown as a green belt and not as Undetermined area is, accordingly, left open to be adjudicated before the Consumer Forum.

9. The writ petition stands disposed of accordingly.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

23.08.2023
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No