

2023:PHHC:145177-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18799-2020 (O&M)
Date of decision: 15.11.2023

Amar Singh

....Petitioner

Versus

State of Haryana & Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL

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

Mr. Deepak Bhardwaj, DAG, Haryana.

Mr. Deepak Sabherwal, Advocate for respondents/HSVP.

ARUN PALLI J. (Oral)

The petitioner herein has prayed for the following
substantive relief:-

“Civil Writ Petition under Articles 226/227 of Constitution of India for issuance of a writ especially in nature of CERTIORARI for quashing impugned letter memo No.6367 dated 08.10.2020 issued by Estate Officer-II, HSVP Gurugram i.e. respondent No.5 (Annexure P-9) being issued without any rhyme or reason, non-speaking, arbitrary, discriminatory, whimsical, using colorable exercise of power, violating principles of natural justice and against provisions of law much less facts and circumstances of present case for extraneous reasons causing irreparable loss and injury to petitioner and/or in alternative, writ in nature of MANDAMUS directing respondents to initiate appropriate and necessary legal proceedings/ action against erring officials for intentionally and deliberately issuing such impugned letter and/or to direct respondent no.4 to decide appeal dated 12.10.2020 (Annexure P-10)

within a time bound manner in view of facts and circumstances of present case, in interest of justice, equity and fair play;

It is further prayed that during pendency of present writ petition operation of impugned letter memo No.6367 dated 08.10.2020 issued by Estate Officer-11, HSVP Gurugram i.e. respondent No.5 (Annexure P-9), may kindly be stayed, in the interest of justice, equity and fair play”

Learned counsel for the petitioner submits that pursuant to the letter of allotment dated 31.10.2006, the petitioner was allotted Plot No.1388, measuring 220 sq. mts. in Sector 57, Gurugram. In reference to the document (Annexure P-3), it is submitted that area allotted to the petitioner was changed to 275 sq. mts. on 14.01.2010. And pursuant thereto, he was issued a Possession Certificate on 19.11.2010 and he was put in actual physical possession of the site measuring 275 sq. mts. It is urged that the petitioner not only deposited the entire sale consideration, but also the additional costs that he was asked to deposit, owing to an enhancement in the compensation awarded by the Courts regarding the acquired land. It is submitted that subsequently, even the building plans submitted by the petitioner were approved by the authorities, vide Memo No.HSVP/30810/2020 on 13.07.2020. However vide communication dated 08.10.2020 (P-9), the authorities withdrew the Possession Certificate as also the building plans, since the petitioner was raising construction at site on an area measuring 12.50 x 22 mts. i.e. 275 sq. mts., instead of 10.25 x 22 mts i.e. 225.50 sq. mts. as per the approved demarcation. He submits that aggrieved by the action of the respondents – authorities, the petitioner even preferred an appeal to the Administrator, HSVP, Gurugram, which was returned to him, for no

such appeal was maintainable.

As opposed to this, learned counsel for the respondents submits that right/title/interest of the petitioner, if any, in the plots/site in question stems from the letter of allotment dated 31.10.2006. And analysis thereof reveals that only an area measuring 220 sq. mts. was allotted to the petitioner. However, he submits that after the demarcation was carried out, the area allotted to the petitioner was corrected to 225.50 sq. mts (10.25 x 22 mts.). Therefore, even if, on account of any clerical error or accidental omission/slip, the drawings submitted by the petitioner were approved and the Possession Certificate qua an area measuring 275 sq. mts. was issued, that would not vest any legally enforceable right in the petitioner to construct upon a site measuring 275 sq. mts. as it was never allotted to the petitioner, in the first instance.

After we had heard the matter at length, learned counsel for the parties reached a consensus that let this petition be disposed of, at this stage, to enable the appropriate/competent authority to revisit the matter in issue and pass necessary orders dealing with concerns/grievances of the petitioner as sought to be raised in this petition. It is urged that petitioner shall also be afforded an opportunity of hearing before any such orders are passed.

However, learned counsel for the petitioner submits that the authorities be directed to pass the necessary orders within a specified time.

In response, learned counsel for the respondents submits

that appropriate orders, as indicated above shall be passed within a period of 03 months from today. The petitioner shall also be entitled to supplement his claim by furnishing any fresh material/evidence in this regard within a period of 01 week from today.

In the wake of above, the petition is accordingly disposed of in terms of the statements made by learned counsel for the respective parties.

Needless to assert that this order shall not constitute any expression of opinion on the merits of the case of either party, for, as indicated above, the appropriate/competent authority shall examine the claim of the petitioner, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

15.11.2023
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No