

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

**COCP-2355-2023 (O&M)
Date of decision: 09.08.2023**

Vikas House Building Company Private Limited

....Petitioner

Versus

Sagar Setia

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Aayush Gupta, Advocate
for the petitioner.

ARVIND SINGH SANGWAN J. (Oral)

The petitioner alleges non-compliance of the order dated 31.05.2006 passed in CWP No.1684 of 2006.

Counsel for the petitioner has submitted that the petitioner is a company, which is having necessary licenses issued by the State of Punjab under the Punjab Apartment and Property Regulation Act, 1995. It is further submitted that when a demand was raised by the respondent as detailed in Para 2 of the petition, the petitioner has filed CWP No.1684 of 2006, which was disposed of on 31.05.2006, by passing the following order:-

***“During the course of arguments, learned counsel for the applicant states that the controversy in the present case is squarely covered by a Division Bench judgment of this Court dated May 9, 2006 passed in CWP No.10476 of 2005 in the case of M/s Romana Builders vs. State of Punjab. In view of the aforesaid fact, with the consent of the learned counsel for the parties, the main case is thus taken up for disposal.*”**

We have heard the learned counsel for the parties and have also gone through the record. We find that the controversy in the present case is squarely covered by a Division Bench judgment of this Court dated May 9, 2006 passed in CWP No.10476 of 2005 in the case of M/s. Romana Builders vs State of Punjab.

Consequently, we dispose of the present petition in terms of M/s. Romana Builders case.

Copy of the order be given dasti on payment of the usual charges.

CM as well as the main petition stands disposed of.”

Counsel for the petitioner has then referred to the order dated 09.05.2006 passed in the aforesaid writ petition, which further reads as under:-

“Primarily, the grievance raised by the petitioner before this Court is that no external development works had been carried out by the respondents at the site and as such the petitioner was not liable to pay the aforesaid development charges, and in any case, the aforesaid policy decision was not even applicable to the case of the petitioner.

After having given thoughtful consideration to the aforesaid contentions raised by learned Senior Counsel on behalf of the petitioner, we are satisfied that vide appellate orders (Annexure P-11, P-12 and P-13), the appellate authority has remanded the case back to the competent authority for re-determination. No final order re-determining liability of the petitioner has been passed by the competent authority so far. In these circumstances, we are satisfied that the grievance made by the petitioner before this Court is wholly pre-mature.

Shri R.S. Mittal, learned Senior counsel appearing for the petitioner, however, argues that since the appellate

authority has remanded the matter back to the competent authority with some definite directions, therefore, the competent authority would be legally bound by such directions and various pleas raised by the petitioner challenging levy of the external development charges, remain adjudicated.

Keeping in view of the fact and circumstances of the case and also the fact that the appellate authority has already set aside the original demand orders passed against the petitioner and the matter has been remanded back to the competent authority for re-determination, we deem it appropriate to direct the competent authority to adjudicate upon the various objections/pleas raised by the petitioner challenging the levy of the external development charges.

For the aforesaid purpose, the competent authority would adjudicate upon the various pleas/objections, wherein it has been pointed out that no external development work had been carried out by the respondents. It would be only after the determination of the aforesaid fact that the competent authority would be required to pass a fresh demand order against the petitioner, if any. On passing of the aforesaid fresh demand order, the petitioner would be at liberty to challenge the same, if so advised, in accordance with law. Till the final determination is made by the competent authority, the petitioner would not be required to pay/deposit any external development charges.

With the aforesaid direction, writ petition is disposed of.

A copy of the order be given dasti on payment of usual charges.”

Counsel for the petitioner has contended that while disposing of the writ petition of the petitioner, a specific direction was

issued that till the final decision is made by the competent authority, the petitioner would not be required to pay the external development charges. It is also submitted that though the petitioner has performed this part of the development work, however, the respondent has neither adjudicated upon the claim of the petitioner nor has performed their part of duty and has rather issued a notice of demand dated 09.03.2023, directing the petitioner to deposit the development charges.

After hearing the counsel for the petitioner, it will be in the interest of justice that a direction be issued to the respondent to first comply with the orders dated 09.05.2006 and dated 31.05.2006, passed by this Court, directing the respondent to adjudicate upon all the claim of the petitioner regarding the external development work carried out at the spot.

Ordered accordingly.

Till the time the final decision is taken, the notice of demand dated 09.03.2023, shall be kept in abeyance.

The petition is disposed of, accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

09.08.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No