

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

**COCP-2375-2023 (O&M)
Date of decision: 10.08.2023**

Jaidev Inder Singh and another

...Petitioners

Versus

Ajoy Sharma and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Aayush Gupta, Advocate
for the petitioners.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners are alleging violation of the order dated 17.07.2017, passed by this Court in CWP-11251-2016, vide which, the following observations were made:

“Mr. Mahajan, lastly contended that it is impossible to use the said 10.76 acres of land as an orchard. He further states that the entire surrounding area has been developed commercially construction surrounds this plot and therefore, it is not even viable or desirable to use it as an orchard.

We express no opinion in this regard. It is for the authority to consider whether or not to permit the change of land use for orchard.

The petitioners are at liberty to make an application for change of land use in accordance with law. They are also at liberty to make an application for acquisition of the property whether in the alternative or otherwise. If such an application is made, the same will be decided by the respondents in accordance with law.

Needless to add that all the contentions of the parties including the effect of the earlier resolution of the

respondents and the judgment are kept open.

The petition is accordingly disposed of.”

Learned counsel for the petitioners submits that previously, the mother of the petitioners had filed a civil suit, in which, RSA No. 2634 of 1993 was filed before this Court and the same was disposed of on 27.09.2001 in view of the statement made by the parties. The operative part of the order reads as under:

“In view of the statements made by learned counsel for the parties, as fully detailed above, this appeal is disposed of as having been compromised in view of resolution passed by the Improvement Trust which has since been approved by the Government of Punjab and in view of order passed today. The counsel for the Improvement Trust has placed on record letter dated September 19, 2001 addressed to the Principal Secretary to the Government of Punjab by the Improvement Trust which is accompanied by background of the matter and the resolution. Same be taken on record. The judgment and decree passed by the trial court and as confirmed by the first appellate Court is modified to say that the suit of the plaintiffs/appellants with regard to 10.76 acres of land shall stand decreed whereas their suit with regard to remaining land shall stand dismissed.

Before this Court may part with this order, it requires to be mentioned and as is also clear from the interim orders passed in this case, that the Improvement Trust has since already deposited the compensation of entire land. It is not disputed by learned counsel for the parties that the appellants would be entitled to withdraw the compensation proportionately, i.e., the entire compensation but for the land measuring 10.76 acres in proportion to as has been granted by the Land Acquisition Collector. So would be the position in the reference and further appeals filed by the appellants. The appellants would handover the possession of the land, regarding which their suit has been dismissed within seven

days from the date Government issues notification exempting 10.76 acres of land. The parties are left to bear their own costs. Let decree sheet be prepared accordingly.

The Court places on record its appreciation for the parties and, in particular, the Advocate General, Punjab, in settling this long standing controversy by an amicable settlement.

Civil Misc. applications filed through Mr. Rajiv Kataria, Advocate, for impleading the applicants as party-respondents are dismissed as having become infructuous. So would the fate of other misc. applications filed by either of the parties.”

Learned counsel for the petitioners has referred to resolution No. 99, passed by the Improvement Trust, to submit that the adjacent land to the land, which was left with the petitioners, was declared to be commercial under Section 43 of the Punjab Town Improvement Act, 1922. The operative part of the resolution reads as under:

“As per decision taken in the meeting held on 22.9.2005, in order to amend the approved layout plan, case is submitted for seeking approval from the Government to convert the land measuring 97 Acres and neighbouring land of the Trust to commercial under Section 43 of the Punjab Town Improvement Act, 1922.

Resolution No. 99

It is approved. Case may be sent to the Government.”

Learned counsel for the petitioners further submits that in view of the same, the petitioners had filed the aforesaid writ petition, which was disposed of on 17.07.2017, however, despite passing of the resolution by the respondents, no further action has been taken, though a report in this regard has been submitted before this Court on 27.12.2017, which reads as under:

“Keeping in view the above mentioned report, it is told that if

purpose of land of land owner of 10.76 is granted by the government then maximum financial benefit would be attained. Before taking any action, earlier passed order by the government and decisions taken in various courts may be brought into consideration.

Sd/-

Executive Officer,

Town Improvement Trust, Amritsar.”

Learned counsel further submits that despite the aforesaid report, no final decision has been taken.

After hearing learned counsel for the petitioners, this Court finds that at this stage, instead of issuing notice of motion to the respondents, it would be appropriate to direct the respondents to comply with the order dated 17.07.2017 in view of the report dated 27.12.2017, recommending that the land can be used for mixed land purposes i.e. commercial purposes and not for horticulture purpose and decide the claim of the petitioners.

Ordered accordingly.

The respondents are directed to take a final decision, considering the report (Annexure P-5), within a period of six months from today.

Disposed of.

10.08.2023
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No