

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

CWP-25664-2022

DATE OF DECISION: 20.07.2023

M/S GANGA HANDLOOM

.....PETITIONER

Vs.

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

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

Present: Mr. Sandeep Sharma, Advocate,
for the petitioner.

Mr. Aman Bahri, Addl. A.G., Haryana.

Mr. Deepak Sabherwal, Advocate,
for respondents No. 2 and 3-HSVP.

G.S.SANDHAWALIA, J. (ORAL)

1. The present petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of '*mandamus*' directing the respondents to issue the Demand Notice regarding the enhancement of Plot No. 214-A, Sector 29, Part-II, Panipat. The further prayer in the petition is that the petitioner be permitted to make payment of enhancement amount, in view of the Last and Final Settlement Scheme, 2022 (for short "LFSS") dated 17.08.2022 (Annexure P-19).

2. The case has a very checkered history and there are disputed questions of facts involved. Vide interim order dated 22.11.2022, passed by the co-ordinate Bench of this Court, the respondents were directed to accept the amount as per the LFSS. The case of the petitioner (as recorded

in the order dated 22.11.2022), is that the petitioner had purchased the said industrial plot from M/s Virk Dye House on 27.06.2016 after due permission from the respondent-Department and a conveyance deed was also executed in its favour on 06.07.2016.

3. Apparently, an enquiry had been conducted on 02.01.2017 by the Chief Administrator, HSVP, Panchkula, on a complaint whereby the allotment was prayed for the aforesaid, i.e. Plot No. 214-A, Sector 29, Part-II, Panipat, which was initially in favour of M/s Virk Dye House, Barsat Road, Panipat, on 24.12.2007. The said allottee was apparently a partnership firm consisting of Tajinder Kumar, son of Piara Lal and Neetu, son of Jasvinder Singh Puri, having share of 65% and 35% respectively. Thereafter, an application was received that a new Corporative Partnership Firm namely M/s Ganga Handloom, i.e. the present petitioner consisting of Tajinder Kumar, son of Piara Lal, partner to the extent of 51% and Dharam Chand, son of Bhartu Ram to the extent of 49% has been undertaken by the owners of M/s Virk Dye House. The affidavit of the excluded partner namely Neetu, son of Jasvinder Singh Puri, had also been submitted regarding his no-objection towards their new partnership firm and the change of constitution had been allowed on 02.03.2016.

4. Vide order dated 27.10.2017, the Principal Secretary to the Government of Haryana Town & Country Planning Department, while deciding the revision petition filed by Tajinder Kumar and others, had directed that the Chief Administrator should conduct a detailed enquiry. Apparently, prior to that one Jasbir Singh Virk claiming to be Neetu had also filed one writ petition bearing No. CWP-17415-2015, wherein he had

prayed for holding of an enquiry and to take action and sought cancellation of the allotment in favour of Tajinder Kumar, respondent No. 4 on account of forgery and fabrication.

5. In pursuance of the said background, an enquiry has been conducted now on 18.04.2023 by the Executive Engineer (Vigilance), HSVP, Sh. Ashok Rana, while coming to the conclusion that the identity of the Neetu, son of Jasvinder Singh, has not been established.

6. Jasbir Singh Virk, as such, has also objected to the allotment but the fact that an order had been passed on 21.08.2015 that he is not the original applicant at the time of the allotment but the allotment in favour of Tajinder Kumar would effect his rights. Apparently, there are disputed questions of facts are arising as to the initial constitution of the partnership and the identity of the Neetu, who was the original partner and is now being moved out on the basis of the subsequent partnership firm namely M/s Ganga Handloom, i.e. the present petitioner, in which Tejinder Singh and Dharam Chand are the partners as the present writ petition has been filed through Dharam Chand.

7. Keeping in view the above, we are of the considered opinion that the disputed questions of facts are arising and the interest of the property is sought to be transferred on the basis of documents which they have not been verified by the concerned authorities.

8. In such circumstances, we are of the considered opinion that the fact of ownership and the right to transfer cannot be adjudicated upon, in those set of proceedings. It is a well settled principle of law that a writ Court would not go into disputed questions of facts.

9. Resultantly, the petitioner is relegated to its remedy of proving his entitlement and the right to the property in question by resorting appropriate proceedings before the Civil Court.
10. Consequently, the present writ petition is disposed of with the abovesaid observations.

(G.S. SANDHAWALIA)
JUDGE

July 20, 2023
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No