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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCp-2869-2022 (O&M)
Date of decision: 02.02.2023

House Owners Welfare Association and others

... Petitioners

Vs.

Ajit Balaji Joshi and ors.

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ashwani Talwar, Advocate
for the petitioners.

Ms. Vasundhra Asija, Advocate for
Mr. P.S. Chauhan, Advocate
for respondents No.1 to 3.

Mr. S.P. Arora, Advocate
for respondent No.4.

ARVIND SINGH SANGWAN, J. (ORAL)

The petitioners allege violation of the order dated 18.04.2022
passed in CWP-4202-2022, which reads as under: -

*“Vide this application, residents of the area in question seek to
be impleaded as respondents No.4 to 8 in the accompanying
petition, with Mr. Talwar, learned counsel appearing for the
applicants, submitting that that as per the applicants, the
petitioner in the accompanying petition has constructed more*

area than is permissible for a nursery school, the allotment to the petitioner being for only 1625 square meters of land.

Mr. Arora, learned counsel for the petitioner on the other hand submits that the petitioner is willing to give up the remaining area (550 square meters), though an additional amount of Rs.1 Crore plus has been deposited by it (petitioner).

That being so, the respondent-HSVP is directed to file an affidavit of a competent officer stating therein (after duly inspecting the site in question), as to whether the construction made by the petitioner is as per the building norms and byelaws as also in terms of the judgment of the Supreme Court directing that a nursery school shall be restricted to a certain number of floors and with certain open area to be mandatorily provided by the school authorities.

Naturally, if the sanctioned plan is against the mandatory norms and rules, necessary action in that regard will be taken by the respondent-authority, with (prima facie at least), the petitioner at liberty to claim damages from the respondents if the plan has been sanctioned in violation of the such byelaws or norms etc.

In the meanwhile, the respondent-authority would ensure that no part of any street as has been provided to the residents of the area, is encroached upon by the petitioner.

The applicants are also at liberty in the meanwhile to bring to the notice of this court, by way of photographs etc., any encroachment of land by the petitioner.

Adjourned to 29.08.2022. ”

The petitioners, who are not either the petitioners or respondents in the aforesaid writ petition, have filed this contempt petition with the

averments that auction was done with regard to 1625 square meters, but the respondent-Society has submitted the plan by taking the plot area of 2177.85 square meters, therefore, there is violation of the order.

Reply by way of affidavit of Administrator, HSVP, Panchkula, filed in the Court today, is taken on record, in which it is stated that original allotment was made with regard to 1625 square meters, but at the time of approval of building plan, correct area as per the site had been conveyed by XEN, HSVP Division No.1, Panchkula and zoning plan of the site was approved for the area 2177.83 square meters and approved demarcation plan, copy of which is attached as Annexure R-1, is passed.

In view of the above, no willful disobedience is made out.

Dismissed.

Liberty is granted to the petitioners to avail the alternative remedy, if so advised.

[ARVIND SINGH SANGWAN]
JUDGE

02.02.2023
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No