

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4267-2024
Date of decision: 26.02.2024

Grand Arch Resident Welfare AssociationPetitioner

Versus

State of Haryana and othersRespondents

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

Present: Mr. Rajiv K Virmani, Advocate,
Mr. Naman Saraswat, Advocate,
Mr. Abhimanyu Batra, Advocate,
for the petitioner.

(Through Hybrid Mode)

ARUN PALLI, J. (Oral)

The petitioner (Grand Arch Resident Welfare Association)
has prayed for the following substantive relief:-

“Civil Writ Petition under Articles 226 of the Constitution of India, praying for issuance of a Writ in the nature of Mandamus, directing the Respondents No.1 and 2 to take actions against the Respondent No.3 for selling the community centre building/recreational building/club, situated in the Residential Group Housing Colony-Grand Arch, Sector-58, Gurugram, Haryana-122001 to a third-party (Respondent No.4) in complete violation of (i) the building approvals particularly BR-III granted vide Memo No.ZP-419/JD(BS)/2011/1825 dated 14.02.2011; (ii) violation whereof was further reaffirmed by Respondent No.1 vide its Memo No.ZP-419-Vol II/JD (RA)/2003/38920 dated 15.11.2023, in the interest of justice and accordingly reinstate the ownership and possession of the community centre building/recreational

building/club, free of all fetters, prior agreements, consents and sales to the Petitioner RWA, unjustly transferred by Respondent No.3 to Respondent No.4.” AND

Consequently, issue a Writ in the nature of Mandamus, directing the Respondents No.1 and 2 to take actions against Respondents No.3 and 4 such that the benefits of unjust enrichment collected by aforesaid Respondents No.3 and 4 (by way of Club Membership Registration Charges and other related costs, charges and levies paid by the residents/members for the community centre building/recreational buildings/club are paid and made good to the Petitioner RWA, which is responsible for welfare of the residents/owners of Grand Arch.”

Learned counsel for the petitioner, at the outset, submits that prior to the institution of this petition, the petitioner had even served the Directorate of Town & Country Planning (Respondent No.1), with a representation/e-mail dated 18.01.2024 (P-18), as also the District Town Planner, Gurugram (Planning) and District Town Planner, Gurugram (Enforcement)-respondent No.2, vide a representation/e-mail dated 29.12.2023 (P-17), qua its concerns/grievances. But to no avail.

Served with the advance copy of the petition, Mr. Ankur Mittal, learned Additional Advocate General, Haryana, is present in Court. He submits that in context of the limited issue involved for consideration, it would be expedient if the petition is disposed of, at this stage, to enable the competent authority [District Town Planner (Enforcement), Gurugram], to consider the claim of the petitioner. And pass necessary orders, in accordance with law, after affording it a hearing. It is urged that authorised representatives of the petitioner-Association may appear before the District Town Planner, (Enforcement), Gurugram, on 29.02.2024 at 11:00 AM, in this regard. Further, petitioner shall also be at liberty to submit any fresh material/documents to substantiate its claim.

Learned counsel for the petitioner is in agreement with the course suggested by the learned State counsel, and submits that let this petition be disposed of, in terms of the statement made by him. However, he submits that in the wake of the urgency involved in the matter, the authorities be directed to do the needful, within a specified time.

In response, learned State counsel submits that appropriate orders shall be passed within a period of three weeks from today.

The petition is accordingly disposed of, in terms of the statements made by learned counsel for the parties.

This Court is sanguine that the authorities shall look into the matter in the right earnest. And the appropriate orders shall be passed within the time indicated by the learned State counsel.

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 competent authority shall examine the concerns/grievances of the petitioner, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

26.02.2024
Ak Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No