



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11025-2024

Date of decision: 14.05.2024

Baljinder Kaur Powar

....Petitioner

Versus

State of Punjab and others

....Respondents

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

Present: Mr. N.P.S. Mann, Advocate,
for the petitioner.

Mr. Shekhar Verma, Additional Advocate General, Punjab.

ARUN PALLI, J. (Oral)

Upon consideration of the matter in issue on May 13, 2023,
this Court had passed the following order:-

“Apparently, vide order dated 24.10.2007, passed by the Estate Officer, Greater Mohali Area Development Authority (GMADA), S.A.S. Nagar, Mohali (P-4), the site/plot No.489, Phase 3B1, S.A.S. Nagar, Mohali, was resumed. And, the appeal preferred against the said order, under Section 45 (5) of the Punjab Regional and Town Planning and Development Act, 1995 (the Act) was dismissed by the Appellate Authority on 27.05.2009 (P5). It is not in dispute either that even, vide order dated 01.06.2010 (P-6), the revision preferred by the petitioner under Section 45 (8) of the Act, against the order of resumption, was rejected. However, surprisingly, after 12 years, the petitioner again preferred an appeal under Section 45 (5) of the Act, which has since been allowed by the Chief Administrator-cumAppellate Authority, vide order dated 18.10.2022 (P-7). And the order of resumption



dated 24.10.2007 (ibid) has been set aside, and the plot/site has been restored to the petitioner.

Upon being pointedly asked, as to how, once the revisional authority had dismissed the revision preferred by the petitioner on 01.06.2010 and the order of resumption dated 24.10.2007 as also the order dated 27.05.2009 passed by the Appellate Authority, was affirmed, the petitioner could still prefer an appeal under Section 45 (5) of the Act, learned counsel for the petitioner expressed his inability to refer to any provisions or the averments in the petition in this regard. Further, analysis of the order dated 18.10.2022, does not reveal if the earlier order passed by the appellate authority as also the revisional authority dated 01.06.2010 was even brought to the notice of the appellate authority.

Faced with this, learned counsel for the petitioner prays for a short accommodation to seek instructions.

Likewise, served with the advance copy of the petition, Mr. Vipin Pal Yadav, Additional Advocate General, Punjab, is present in Court on behalf of the respondents and submits that the concerned official along with the original record shall be present in Court tomorrow i.e. 14.05.2024 to explain the position as indicated above.

Adjourned to 14.05.2024.”

In response, learned Additional Advocate General, Punjab, on the basis of the original records available with him, submits that once the appeal preferred by the petitioner against the order of resumption dated 24.10.2007 (P-4), was dismissed by the Appellate Authority, vide order dated 27.05.2009 (P-5) and, thereafter, the revision filed by her also met the same fate, no second appeal could even be filed under Section 45(5) of the Punjab Regional and Town Planning and Development Act, 1995. Further, on instructions, he submits that in the subsequent appeal preferred by the petitioner, there was no reference to the order(s), vide



which the Appellate Authority had earlier rejected her appeal, and thereafter, even the revision petition was dismissed. And the matter had already attained finality. Thus, the second order passed by the Appellate Authority, dated 18.10.2022, is apparently *non est* in the eyes of law. It is submitted that prior to the institution of the petition, the matter was examined in its entirety by the competent authority, and it was resolved that the order dated 18.10.2022 (*ibid*) shall not be enforced/implemented or given effect to.

Faced with this, even learned counsel for the petitioner submits that the order dated 18.10.2022 (*ibid*) is indefensible and cannot be justified. Accordingly, he submits that he be permitted to withdraw the petition to enable the petitioner to avail such other remedies, as shall be admissible in law.

Dismissed as withdrawn.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

14.05.2024
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No