



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

**CWP No.13571 of 2024
Reserved on: 01.08.2024.
Pronounced on:27.08.2024.**

**Greater Mohali Area Development Authority (GMADA), Puda
Bhawan, Mohali and another**

....Petitioners

Versus

Revisional Authority-cum-Special Secretary and others

....Respondents

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

Present: Mr. R.S.Khosla, Sr. Advocate
with Mr. Yogender Verma, Advocate
for the petitioners.

Mr. Rajiv Atma Ram, Sr. Advocate
with Mr. Arjun Pratap Atma Ram, Advocate
for the caveator-proposed respondents.

VIKRAM AGGARWAL J.

1. The present writ petition has been preferred by Greater Mohali Area Development Authority (GMADA) assailing the order dated 10.07.2023 (Annexure P-23) vide which the revision petition filed by respondents no.2 to 4 against the order dated 06.02.2020 was allowed and refund of the non-construction fee imposed from 31.12.2007 to 30.06.2014 was ordered.

2. The facts, as set out in the writ petition are that Kanwal Jit Singh Narang and Jagjit Singh Narang, who were real brothers were allotted a residential plot bearing No. 15, measuring 500 Sq. yards



situated in Sector-69, SAS Nagar Mohali vide letter of allotment dated 28.12.1999 (Annexure P-1).

3. As per condition No.11 of the allotment letter, the construction of the building had to be completed within three years from the date of issuance of the allotment letter. In case of non-construction, extension could be granted on payment of extension fee as determined by PUDA from time to time.

4. The case of the petitioner is that on account of construction not having been initiated, a sum of ₹10,50,134/- was demanded from the allottees vide letter dated 02.03.2004 which was the outstanding amount towards balance installments and non-construction fee. An appeal was preferred against the same, which was decided by way of order dated 11.05.2004 and the case was remanded for fresh consideration. Ultimately, a fresh demand of ₹12,75,077/- till 31.03.2005 was issued to the allottees vide communication dated 18.03.2005.

5. Certain disputes arose between the two brothers on account of which certain communications were sent by both sides and certain amounts were also deposited by both sides, the details of which are not relevant for the purpose of the decision of the instant case.

6. One of the brothers namely Kanwal Jit Singh Narang expired on 21.11.2005. After his death, a civil suit was instituted by his legal heirs for declaration and mandatory injunction.

7. Pursuant to building plans having been submitted for sanction by Sh. Jagjit Singh Narang on 16.10.2007 and a legal notice



dated 02.06.2008 also having been issued, a communication dated 13.08.2008 (Annexure P-11) was issued stating that the sanctioning of plans was not possible until the heirs of the Kanwal Jit Singh Narang were established. It would be relevant to mention here that on 27.03.2007, a sum of ₹7,00,000/- had been deposited by Sh. Jagjit Singh Narang on account of non-construction fee.

8. Eventually, a settlement was arrived at between the parties on 10.10.2013 and the suit was decreed in terms of the settlement on 28.10.2013 (Annexure P-12). After the settlement having been arrived between the parties, a request was made by Sh. Jagjit Singh Narang and his two sons namely Ripjit Singh Narang and Amit Jit Singh Narang for transfer of the plot in question in their name. Vide communication dated 20.03.2014, they were informed that they could get the transfer effected after payment of the necessary charges after which a joint affidavit dated 04.06.2015 (Annexure P-14) was filed by them stating that as and when non-construction fee was finally determined, the same would be paid by them. The non-construction fee was determined as ₹25,43,802/-. However, a stand was taken by the allottees that the non-construction fee could not have been charged beyond 2007. In this regard, communications dated 04.09.2014 (Annexure P-16) and 08.06.2015 (Annexure P-17) were sent by them.

9. Vide communication dated 13.01.2016, the objections raised by the allottees were rejected leading to the filing of a revision petition, which was decided on 04.10.2016 (Annexure P-20) and the matter was



remanded to the Chief Administrator for deciding afresh after affording an opportunity of hearing to the allottees.

10. In the meantime, the allottees applied for NOC to sell the plot which was duly granted on 12.10.2016 and ultimately, the plot was sold to one Sunil Bansal son of Sh. Sohan Lal Bansal and requisite correction in the record was also made on 23.01.2017. An undertaking was given by the said Sunil Bansal that if any refund was found due, the same be paid to Jagjit Singh Narang and his two sons.

11. An order dated 06.02.2020 (Annexure P-21) was passed as per which non-construction fee imposed was upheld. This order was challenged by way of a revision petition (Annexure P-22) which was allowed by way of the impugned order dated 10.07.2023 (Annexure P-23) leading to the filing of the present writ petition.

12. Learned senior counsel for the petitioners and learned senior counsel representing respondents No.2 to 4 who duly caused appearance on advance copy of the petition having been served were duly heard.

13. Sh. R. S. Khosla, learned Senior Counsel representing the petitioners strenuously urged that the Revisional Authority had erred in waving off the extension charges. It was submitted that the Revisional Authority did not deal with the matter from the correct perspective because the building plans had been submitted on 28.02.2014 and had been sanctioned on 11.06.2014. Learned Senior Counsel submitted that the building plans had been sanctioned immediately on the civil suit having been decreed and therefore the authorities cannot be faulted for



non-sanctioning of building plans. It was argued that imposition of the non-construction fee is justified and waiver of the same would tantamount to unjust enrichment of the private respondents who had eventually sold the plot to one Sunil Bansal who had further sold it to Sunil Kumar Arora and Gunjan Arora.

14. *Per contra*, learned Senior Counsel representing the private respondents defended the impugned order passed by the Revisional Authority and submitted that no extension charges were leviable and, therefore, the same were rightly waived of by the Revisional Authority.

15. Having considered the submissions made by learned Senior counsel for the parties, we find that the writ petition is devoid of merit. Admittedly, the building plans had been submitted seeking sanction on 16.10.2007 along with the requisite fee. Sh. Jagjit Singh Narang had submitted affidavits and undertakings on 16.10.2007, 07.04.2008 and 20.05.2008 for safeguarding the rights of the parties. The building plans were however returned on 25.06.2008. A request dated 07.07.2008 was made by Sh. Jagjit Singh Narang to execute the conveyance deed and the building plans were resubmitted for sanctioning. The matter was however decided to be kept pending by the authorities till the dispute between the parties was settled. Ultimately, the dispute was settled before the Civil Court and decree dated 28.10.2013 was passed after which the building plans were resubmitted on 28.02.2014. They were then sanctioned on 11.06.2014. It is, therefore, clear that initially the building plans had been submitted on 27.10.2007 and the requisite fee had also been deposited.



The dispute which arose between the parties was not out of choice. A perusal of the writ petition shows that all out efforts were made by Sh. Jagjit Singh Narang to settle the matter and there are repeated communications on record from his side. The amount was also deposited. They however contested the demand of ₹25,43,802/- which was charged as non-construction fee till 30.06.2014. This amount was also subsequently paid under protest. The Revisional Authority examined the matter from all angles and rightly came to the conclusion that the non-construction charges could not have been levied;

“In the light of the facts and circumstances discussed in the preceding paras, I have examined the record. I am of the considered view that it was GMADA that kept the building plans’ pending instead of rejecting them and also retained the building plans fee with it and thereafter, the building plans have been sanctioned against the same fee which was earlier deposited on 16.10.2007. Moreover, the petitioner Sh. Jagjit Singh Narang time and again has been reflecting his bona-fide intention to get the building plans sanctioned as well as to safeguard the interest of other co-owners by submitting the undertakings to that effect. So, if the one co-owner had died the other co-owner cannot be penalized for the same if GMADA kept the building plans pending.

Therefore, in view of above, the Appellate order dated 06.02.2020 is set aside and respondents are directed to refund the amount of non-construction fee from 31.12.2007 to 30.06.2014, in the interest of justice.”



We do not find any error whatsoever in this view taken by the Revisional Authority warranting interference by this Court.

In view of the aforementioned facts and circumstances, we do not find any merit in the writ petition and the same is accordingly dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 27.08.2024
Rekha

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