



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-M-31936-2022
Date of Decision: 05.09.2024

PREM SAGARPETITIONER

VERSUS

JALANDHAR DEVELOPMENT AUTHORITYRESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Aditya Dassaur, Advocate for the petitioner.

Mr. Ashish Grover, Advocate for the respondent.

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under section 482 Cr.P.C. for quashing of Criminal Complaint No. COMA/788/2021 dated 17.11.2021 (Annexure P-3) titled as “Jalandhar Development Authority Versus Surinder Singh & Others” under Section 3, 5, 6, 9, 15 read with Section 356 of Punjab Apartment and Property Regulation Act, 1955, alongwith all consequential proceedings conducted thereon including the summoning orders dated 17.11.2021 (Annexure P-10) qua the petitioner.
2. Factual matrix of the case unfolds that petitioner is a shareholder in the property comprised in Khasra No.93 Khatoni No.54, Khewat No.46/64 of village Lambra, District Jalandhar, and owns a share of 15 marlas out of the total land measuring 2 kanal 19 marlas, as per Jamabandi for the year 2017-18, Annexure P-1. There existed shops in the land and old construction of one school building and one shop was rented out for dry-cleaning and one shop

was rented out to Punjab Electricity Department and on some portion there was godown. The electricity connections got installed in the year 1990 on the said shops situated in the said property. The property was inherited by the petitioner with all the construction pre-existing on it. The area under the petitioner's possession is 15 marlas only which comes to 345 sq. yards.

3. Counsel for the petitioner contends that the respondent – Jalandhar Development Authority has filed complaint, Annexure P-3, against 8 persons, including the petitioner, under above mentioned sections, alleging that one Surinder Singh in conspiracy with all the other accused has illegally carved out plots which are more than 1000 sq. meters for commercial use without obtaining a license from the said authority. In the complaint, it was alleged by the above stated Authority that the petitioners and others were served with notices, Annexures P-4 to P-7, and demolition notice, Annexure P-8.

4. He further contends that the petitioner is an NRI and he came to know about these proceedings only after his visit to India. On coming to know about the summoning order dated 17.11.2021, Annexure P-10, passed by the learned trial Court, he filed an application under Section 438 Cr.P.C. before the learned Court of Session to seek anticipatory bail which was dismissed as withdrawn vide order dated 20.04.2022, Annexure P-12, as the summoning of the petitioner was not made but summons were inadvertently issued. However, the learned trial Court has again issued notice to the petitioner vide order dated 23.05.2022, Annexure P-15 and the order of summoning of the petitioner is liable to be quashed and the complaint is also liable to be quashed qua the present petitioner, as the notices, demolition

notices were never served upon the petitioner but were served upon the above-said Surinder Singh.

5. The learned counsel appearing on behalf of the respondent – Jalandhar Development Authority (for short – ‘JDA’) has referred to the reply filed on behalf of JDA and argued that the allegation against the petitioner is that he is in connivance with Surinder Singh and others have carved out a Colony illegally and unlawfully by dividing the land into plots and constructing numerous shops over the said land for commercial purpose without obtaining the license as required under Punjab Apartment Property Regulation Act, 1995, and even without getting themselves registered as Promoter as required under the provisions of said Act. Moreover, the original ownership of the petitioner, as per jamabandi for the year 2017-18 is 15 marlas but the colony has been carved out over a land of more than 1000 sq.meters and the complaint is duly supported by the jamabandi, rough site plan and photographs of the site, sanction issued by the competent authority and other documents.

6. Further, the petitioner, if was aggrieved of the summoning order, had the remedy of filing revision petition against the summoning order instead of rushing direct to this Hon’ble Court for quashing of the complaint and the summoning order. Hence, the present petition is liable to be dismissed as this Hon’ble Court cannot act as Revisional Court.

7. Heard and also perused case file.

8. It is seen from the case file that the petitioner has approached this Court direct even though he had alternative remedy to file a revision petition against the summoning order. It was even otherwise helpful to the petitioner if he had approached the Court below i.e. Revisional Court because it is his own

case that at the time of hearing of his anticipatory bail application, which was dismissed as withdrawn, it revealed that the petitioner was inadvertently summoned. Thus, the petitioner has chosen a wrong Forum/Court instead of approaching a correct Forum/Court for the redressal of his grievance.

9. Further, this Court has also given a look to two photographs produced by the learned counsel for the respondent while arguing the matter, which are taken on record as Mark 'A' & 'B', and it has revealed that the construction is quite new and fresh. The old construction/structure is on the back of this new construction. The shutter of the shops are quite new. It can by no stretch of imagination be assumed and stated that the shops are old ones as claimed by the petitioner in his petition that he had inherited the land with constructed shops over it. Thus, the present petition has been filed on wrong and misleading assertions.

10. Accordingly, this Court, instead of taking a hyper technical view of the matter, dismiss the present petition as it will be open to the petitioner to contest the complaint filed by the respondent by taking all pleas as deemed appropriate and advised.

11. Nothing observed and discussed hereinabove in this order shall be construed as an opinion by the learned trial Court while deciding the complaint.

12. Ordered accordingly.

05.09.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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