

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.14630 of 2024
Reserved on: 05.08.2024
Pronounced on: 27.08.2024

Residents Welfare Association Gurugram

....Petitioner

V/s

State of Haryana and others

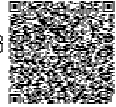
....Respondents

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

Present: Ms. Anju Bansal, Advocate, for the petitioner.
Mr. Deepak Sabherwal, Advocate, for the respondents-HSVP.

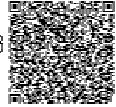
VIKRAM AGGARWAL, J.

1. The petitioner claims to be a Residents Welfare Association based in Gurugram formed by the residents of Sector-10A, Gurugram. It is essentially aggrieved of the action of the respondents in changing the nature of a chunk of a land earmarked for a *rehri* market to shop-cum-offices (SCOs), which according to the petitioner, are being auctioned by the respondents on account of personal interest of certain officials of the Haryana Sahri Vikas Pradhikaran (for short the “HSVP”). The petitioner seeks a direction to the respondents to comply with the judgment dated 07.07.2011 passed in CWP-13652-2009 by a Single Bench of this Court in the case of *Baljinder Singh and others vs. State of Haryana and others* (Annexure P-6) in letter and spirit.
2. The basic case set out by the petitioner is that a chunk of land as depicted in the layout plan (Annexure P-4) was earmarked for a *rehri* market but the same has now been converted for construction of SCOs and booths and the layout/demarcation plan of the *rehri* market has been revised vide Annexure P-3 in an illegal and arbitrary manner.



3. As per the petitioner, many representations were submitted to the respondents but no action was taken on the said representations. Two of such representations have been placed on record as Annexure P-1 and P-5. The photographs depicting construction of SCOs are annexed as Annexure P-2. Reliance has also been placed upon the judgment dated 07.07.2011 passed in the case of **Baljinder Singh** (supra), in which it was held that the use of land cannot be changed without preparing the utilization plan.

4. On advance copy of the writ petition having been served, learned counsel representing the HSVP, caused appearance and a short reply by way of an affidavit of the Estate Officer-I, HSVP, Gurugram, dated 05.08.2024 was filed on behalf of respondents No.2 to 4. The stand taken in the short reply is that the layout plan dated 10.05.1995, in which a *rehri* market had been proposed, was revised/modified vide layout plan dated 29.04.2022 by the competent authority i.e. the Chief Administrator, HSVP, Panchkula. As per the revised plan, 12 double storeyed shops, 28 booths, 4 kiosks and space for public utility services have been carved out at the site in the approved plan dated 29.04.2022 (Annexure R-1). It has been averred that development works were also started at the site which is clear from the photographs (Annexure R-2). A stand has been taken that the construction of the double storeyed shops/booths etc. shall be beneficial for the residents of Sector-10A. It has been averred that the site of *rehri* market was lying vacant since 1995 and had not been put to optimal use on account of which the decision to construct double storeyed shops/booths etc. had been taken. Reliance in the short reply has been taken upon the provisions envisaged in Sections 2(g), 13, 14, 54 and 54(d) of the Haryana Development Authority Act, 1977 (for short “the Act of 1977”) and regulation 2(lii) of the Haryana



Urban Development Authority (Erection and Buildings) Regulations, 1979 (for short the “Regulations of 1979”). It has been averred that no right of the habitants of the area has been infringed and, therefore, the writ petition deserves to be dismissed.

5. Learned counsel for the parties were duly heard.

6. Learned counsel representing the petitioner association submitted that the conversion of the site earmarked for a *rehri* market had been done on account of personal interest of the officials of HSVP and that, in fact, the area is being utilized by the residents for various activities. It was submitted that once the booths and shops etc. come up, it will generate lot of traffic and other commercial activities which shall not be in the benefit of the residents of the area. It was also submitted that the entire exercise had been carried out in an illegal and arbitrary manner without following the due process.

7. Learned counsel representing the HSVP, on the other hand, submitted that the layout plan has been revised in terms of the provisions of the Act of 1977 and the Regulations of 1979. Reference was made to the provisions of the Act and the Regulations. It was further submitted that the petitioner had, in fact, no *locus standi* because first of all, the structure of the petitioner association has not been disclosed and it appears that few residents simply termed the petitioner as a resident welfare association. It was further contended that the site earmarked for *rehri* market was lying unutilized as a result of which, a conscious decision was taken to construct double storeyed shops/booths, kiosks, public utility service etc., which would in fact be for the benefit of the residents of the area. It was submitted that in any case, the stand taken by the petitioner appears to be motivated and the writ petition



appears to have been filed at the instance of unscrupulous elements.

8. Having considered the submissions made by learned counsel for the parties and having gone through the statutory provisions, we find the claim set up by the petitioner to be devoid of merit. Concededly, the site in question was earmarked for a *rehri* market but vide revised drawing dated 29.04.2022, a revised layout/demarcation plan was issued, as per which 14 double storeyed shops (with basement), 28 booths (with basement) and with storage on the first floor along with 4 kiosks and a place for public utility services have been planned.

9. Sections 2(g), 13, 14, and 54(d) of the Act of 1977, lay down as under:-

“Section 2(g) “Development” with its grammatical variations means the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change, in any building or land and includes re-development.”

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13. The objects of the Authority shall be to promote and secure the development of all or any of the areas comprised in the urban area and for that purpose, the Authority shall have the power to acquire by way of purchase, transfer, exchange or gift, hold, manage, plan, develop and mortgage or otherwise dispose of land and other property, to carry out by itself or through any agency on its behalf, building, engineering, mining and other operations, to execute works in connection with supply of water [treatment and disposal of sewage, sullage and storm water], control of pollution and nay other services and amenities and generally to do anything, with the prior approval, or on direction, of the State Government, for carrying out the purposes of this Act.

14. (1) When any land, other than the land owned by the Central Government, is required for the purposes of this Act, the State Government, may, at the request of the Authority proceed to acquire it under the provisions of the Land Acquisition Act, 1894 as amended from time to time, and on payment by the Authority



of the compensation awarded under that Act and of any other chares incurred in acquiring the land, the land shall vest in the Authority.

(2) For the purposes of the Land Acquisition Act, 1894[and any other law for the time being in force] the Authority shall be deemed to be a local authority.]

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54. The Authority may, with the previous approval of the State Government, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act and without prejudice to the generality of this power such regulations may provide for-

xxx xxx xxx

(d) the erection of buildings;”

Further regulation 2(lii) of the Regulations of 1979, lays down as under:-

“2(lii). "Zoning plan" shall mean the detailed layout plan of the sector or a part thereof as approved by the Chief Administrator showing the subdivision of plots, open spaces, streets, position of protected trees and other features and in respect of each plot, permitted land use, building lines and restrictions with regard to the use and development of each plot in addition to those laid down in the building rules.”

10. A perusal of the aforesaid provisions shows that the provisions confer powers on the competent authority to develop/plan and dispose of the land vested in it in the manner prescribed under the Act. The power to prepare a plan would obviously include the power to revise the plan, in exercise of which the competent authority approved the revised layout plan on 29.04.2022.

11. In the considered opinion of this Court, the petitioner has not been able to even *prima facie* to show that the action of the respondents is illegal or arbitrary. Viewed from another angle, since it is the positive case



time it was planned for a *rehri* market, which the petitioner has not been able to controvert, the decision to construct and auction double storeyed shops/booths etc. cannot even by imagination be said to be illegal or arbitrary. On the contrary, the move can very well be said to have been initiated for the benefit of the residents of the area, as also for fetching some revenue to the respondent authority, which to the mind of this Court, cannot be termed to be illegal in any sense. The sole aim of the petitioner appears to be to disrupt the process of auctioning the shops/booths etc. for its personal interest.

12. For the reasons aforementioned, we find the writ petition to be completely devoid of merit and the same is accordingly dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

Reserved on: 05.08.2024
Pronounced on: 27.08.2024
Vcgarg/Prince Chawla

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