IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-22627-2016(O&M)
Date of decision: 20.02.2024

Ram Singh and others

… Petitioners

Versus

State of Haryana and others

… Respondents

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

Present: Mr. Ajit Kumar Sharma, Advocate, for
Mr. R.D. Yadav, Advocate, for the petitioners.
Mr. Ankur Mittal, Addl. AG, Haryana, and
Ms. Kushaldeep Kaur, Advocate,
for respondents No.1, 2 & 4.
Mr. Himmat Singh, Advocate, for respondent No.3.
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ARUN PALLI, J. (Oral)

The petitioners herein are the owners in possession of the land comprised in Rectangle/Killa numbers, as specified in the petition, situated in the revenue estate of Village Sampka, District Gurugram. Vide letter dated November 27, 2009, petitioners were granted permission for change of land use to set up a warehouse upon an area measuring 19426.84 sq. meters. And, accordingly, they deposited Rs.2,52,550/- on account of conversion charges. The Final Development Plan (Pataudi Haily Mandi 2031-AD) was published on January 28, 2013, vide which the agriculture zone, wherein the land in question was situated, was changed to Logistic. On 09.09.2014, petitioners obtained further permission for change of land use qua an area measuring 19165.17 sq. meters, for setting up a warehouse for storage of non-agro produces. And, accordingly, they were directed to deposit Rs.8,62,433/- owing to conversion charges, Rs.3,30,055/- against composition fee, and a further sum of Rs.37,88,912/- against 10% of the total External Development Work (EDW).

The limited grievance that the petitioners have is that even though the respondent-authorities have charged Rs.37,88,912/- towards 10% of the total external development work, but they have failed to provide the basic facilities such as water supply, sewerage, drains, roads, electrical works etc. For, the petitioners' repeated representations qua their concerns/grievances failed to evoke any response, they were constrained to approach this Court vide Civil Writ Petition No.22722 of 2014, which was disposed of by this Court on February 11, 2016:

> **"2. If the petitioners have deposited the entire amount(s), respondent No. 3 is bound to carry out the external development works. It is now a year and a half since the petition was filed. The position must have changed. The respondent No. 3 would of course take into consideration whether it has received the payments from the other colonizers as well.**
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> **3. In the event of respondent No. 3 not having completed any particular external development work, the petitioners shall inform respondent No. 3 of the same with the necessary details. The respondent No. 3 would thereupon complete the works. If is not possible to do so, respondent No. 3 shall in writing inform the petitioners as to why it is unable to do so.**
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> **4. Liberty to apply."**

And, in compliance to the order referred to above, the authorities passed the impugned order dated September 21, 2016 (P-9).

A bare analysis of the impugned order/communication reveals that as per policy dated 08.07.2002, regarding Fixation of External Development

Charges in cases of released/Change of land use, 10% of the External Development Charges (EDC) were to be recovered at the time of granting permission for Change of Land Use (CLU), whereas the balance 90% was to be recovered in installments as per mode set out therein.

The specific stand set out by the respondents No.1, 2 & 4 is that the area where the land and warehouse of the petitioners are situated, is located at Gurugram Pataudi Road, which is quite far from the urbanizable limits of the Development Plan 2031-AD. Whereas, the services planned by HUDA were only up to urbanizable limits of Development Plan of GUMC 2031-AD. Accordingly, it is clarified that extension of services, at this stage, would not feasible unless the urbanizable limits are extended and development plans are revised abutting the site/land of the petitioners. And, the revised EDC is approved. Thus, the balance 90% of the total EDC would be recovered as and when the services, delineated in development plan by HUDA, are actually availed by the petitioners. Further, for the time being, the petitioners could make their own temporary arrangements to connect their warehouse services to the existing facilities.

Faced with this, learned counsel for the petitioners submits that in the given circumstances, if it is not feasible for the respondent-authorities to carry out the external development work, and provide the necessary facilities, then as stated in the impugned communication dated September 21, 2016, the petitioners may also not be asked to deposit balance 90% of the total EDC so long as such facilities are made available to them. However, the limited apprehension, being expressed by the learned counsel for the petitioners, is that they might be served with any such demand notice in future, whereby they are forced to deposit even the balance 90%, failing which the permission as regards change of land use granted to them can be withdrawn.

In response, learned counsel for respondents No.1, 2 & 4 submits that position reflected in the impugned communication dated September 21, 2016, itself addresses the concerns of the petitioners, for the respondent-authorities have already clarified that till the necessary facilities and development works are actually carried out, neither the petitioners would be asked for depositing balance 90% of the total EDC nor any such demand would be raised in future.

That being so, learned counsel for the petitioner submits that let this petition be disposed of in terms of the statement made by learned counsel for the respondent(s) as also the stand set out in the written statement filed on their behalf.

In the wake of the position sketched out above, and the statements made by learned counsel for the parties, the petition is accordingly disposed of.

(Arun Palli)
Judge

(Vikram Aggarwal)
Judge

20.02.2024
Rajan

Whether speaking / reasoned: YES/NO
Whether Reportable: YES/NO