

2024:PHHC:109247

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-15970-2024 (O&M)
Date of Decision: 23.08.2024

Dharminder Pachisia

Versus

..... Petitioner

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Vinod Bhardwaj, Advocate and
Mr. Nipun Bhardwaj, Advocate
for the petitioner.

HARSH BUNGER J. (ORAL)

CM-13152-CWP-2024:

Prayer in the present application is for placing on record copy of sanctioned site plan (Annexure A-1).

For the reasons mentioned in the application, the copy of sanctioned site plan (Annexure A-1) is taken on record, subject to all just exceptions.

The present application is accordingly disposed of.

CWP-15970-2024:

The instant writ petition has been filed under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari to set aside office order dated 11.06.2024 (Annexure P-11) passed by the learned Commissioner, Municipal Corporation, Ambala (respondent No.4 herein).

2. The learned Commissioner, Municipal Corporation, Ambala vide order dated 11.06.2024 (Annexure P-11) had rejected the representations dated 25.11.2023, submitted by the petitioner, by holding as under:-

“This order shall dispose of the representation of Sh. Dharminder Pachsia S/o Sh. Ved Prakash Pachsia r/o H. No. 937 A, Sector 7, Urban Estate, Ambala City and Sh. Narinder Pal Mal S/o Sh. Ram Das Mal r/o H. No. 146 Ram Nagar, Ambala City (Petitioners) in compliance of order dated 16.12.2023 passed by the Hon'ble Punjab and Haryana High Court, Chandigarh in CWP No. 27890 of 2023 titled as Dharminder Pachisia Vs State of haryana & others and in CWP No.28028 of 2023 titled as Narinder Pal Mal Vs State of Haryana & others. The operative part of the orders dated 16.12.2023 is reproduced as under:-

“That the present petition is disposed of with a direction to Respondent No.8 Commissioner, Municipal Corporation, Ambala to decide the representation dated 25-11-2023 (Annexure P-7) filed by the petitioner after granting him a personal hearing as well as by passing of speaking order within a period of four weeks on receipt of copy of this order. It is made clear that till the decision of the representation, no demolition should be carried out.

The order passed by the Commissioner, Municipal Corporation, Ambala, newly added respondent No.8, would be communicated to the petitioner.”

16.12.2023

**(RAJESH BHARDWAJ)
JUDGE**

In compliance of the above cited order, the applicants/petitioners i.e. Sh. Dharmnider Pachsia and Sh. Narinder Pal Mal were served with notices for personal hearing on 11.01.2024 at 11 AM vide letter no. MCA/BB/2024/325-326 dated 09.01.2024 in the office of the undersigned with all relevant record for taking

appropriate action in accordance with law on their respective representations. On 11.01.2024 the applicants appeared before undersigned and reiterated the same facts as mentioned in their respective representations dated 25.11.2023. During the course of hearing the applicants were informed that JE Ajay Kumar was performing his official duty assigned to him and nothing unlawful was done by him. On asking about the sanctioned site plan for raising construction, applicants failed to produce any sanction/approval for raising any construction as claimed by them in para no. 4 of their respective representations dated 25.11.2023. The applicants requested that they will produce the documents related to title and sanction/approval for raising construction shortly and they departed being fully satisfied about the role of JE Ajay Kumar but they never returned to produce any document of title and sanction for raising construction over the land in question. On dated 25.11.2023 the applicants were restrained by JE Ajay Kumar with the help of police force from raising construction being not producing any sanction/approval for construction. However, during personal hearing, it was also directed to applicants that construction on aforesaid site, within the limits of the municipal corporation can be raised after satisfying the authority regarding their title to the land in question and after producing a valid sanctioned building plan for that purpose.

Accordingly, the both the representations dated 25.11.2023 are disposed off.”

3. A perusal of the above extracted order would reveal that both the representations dated 25.11.2023, submitted by the petitioner, were rejected primarily on the ground that he had failed to produce any document of title or any sanction for raising construction over the land in question.

4. In this writ petition, petitioner has attached a copy of the alleged

Sale Deed dated 08.06.2022 as 'Annexure P-1' and copy of the Sanction under Self Certification of the building plans as 'Annexure A-1'.

5. A perusal of the aforesaid sanction (Annexure A-1) shows that the same was valid for two years only, i.e. 12.07.2024, in terms of Clause 4(a) thereof.

6. In the aforementioned facts and circumstances as well as considering the fact that the Sanction under Self Certification (Annexure A-1) was valid up to 12.07.2024 and there was no further sanction/approval to the building plans; and without commenting upon the genuineness/validity of the Sale Deed dated 08.06.2022 (Annexure P-1), the present writ petition is disposed of with liberty to the petitioner to approach the Municipal Corporation, Ambala, with the requisite documents of title and also the necessary sanctions/approvals and building plans etc., for seeking permission to raise construction, in accordance with law.

6.1 In case, the petitioner approaches the Commissioner, Municipal Corporation, Ambala (respondent No.4) with the requisite title documents, and also the necessary sanctions/approvals and building plans etc., for seeking permission to raise construction, the same shall be considered and decided by the concerned authority within a period of four months from the date of submission of such request by the petitioner.

7. The writ petition is disposed of in aforestated terms.
8. All pending application(s), if any, shall also stand closed.

23.08.2024

Apurva

(HARSH BUNGER)

JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No