

CWP-16471-2024

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

CWP-16471-2024Reserved on: 18.07.2024Pronounced on: 20.12.2024

Naveen Kumar Batra

....Petitioner

Versus

State of Haryana and others

....Respondents

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

Present: Mr. Sanjeev Sharma, Senior Advocate, with
Mr. Jugansh Goyal, Advocate,
for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana,
Mr. Saurabh Mago, Deputy Advocate General, Haryana
Mr. Karan Jindal, Assistant Advocate General, Haryana.

Mr. Deepak Sabherwal, Advocate,
for the respondent-HSVP.

Mr. Ankur Mittal, Advocate,
Ms. Kushaldeep Kaur, Advocate, and
Mr. Siddhanth Arora, Advocate,
Ms. Saanvi Singla, Advocate,
for the respondent-HSIIDC.

ARUN PALLI, J.

1) In brief, the case set out in the petition is that vide letter of allotment dated 12.04.2001 (P-1), the petitioner was allotted an **Industrial Plot No.199**, Sector-25, Part-II, Panipat, measuring 300 square meter. The tentative price of the subject site/plot was Rs.2,70,000/-. And, 10% of which, i.e. Rs.27,000/-, was remitted by the petitioner, along with an application, as earnest money. He was required to deposit a further sum of Rs.40,500/-, within 30 days, which constituted 25% of the total tentative price. The balance 75% of the consideration

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could be remitted in five half yearly installments. In terms of clause 17 (i) of the letter of allotment, the petitioner was required to start construction of a building within a period of one year, as per the approved building plans, from the issuance of letter of allotment/offer of possession. However, it was only on 14.09.2005, he was delivered the actual physical possession of the subject site/plot. And, soon thereafter, he submitted the building plans for approvals/sanctions. Which were approved/sanctioned on **22.12.2005**. Upon which, he started constructing the site. For he completed construction up to the plinth level, he was issued a DPC certificate dated **08.12.2006 (P-3)**, by the Junior Engineer, Estate Office, Panipat. He applied for a water connection, after depositing the requisite fee/security, on 18.12.2006, which was sanctioned by the Executive Engineer, HUDA Division, Panipat, vide Memo No.477, dated **04.01.2007 (P-4)**. Similarly, for supply of electricity, an electric meter was also installed in the premises on **08.02.2007**, by Uttar Haryana Bijli Vitran Nigam Limited. For the entire construction at site was complete, per the format (form BR-IV), he, on 19.06.2007, applied for completion certificate. But, vide letter dated 21.06.2007, he was required to submit a rain water harvesting certificate, which was submitted. However, it was, at that stage, he was verbally informed that the subject site/plot had since been resumed on **29.12.2005 (P-5)**. For the petitioner had failed to construct the site and start production within the stipulated time, per the letter of allotment. Even otherwise, action of the respondent-authorities was apparently unjust and irrational, for the building plans were approved on 22.12.2005 and within seven days, vide order dated



29.12.2005, the site/plot was resumed. For the petitioner was never served with the order of resumption, he applied for a copy of the order on 04.06.2007, under the Right to Information Act, 2005. And after obtaining the same, he preferred an appeal under Section 17 (5) of the Haryana Urban Development Authority Act, 1977, ('the 1977 Act'), before the Administrator, HUDA. Upon consideration of the matter, the Appellate Authority, concluded that although, the petitioner had failed to comply with the terms/conditions of the allotment letter, and despite the order of resumption, he carried out construction over the resumed site, but now that the subject site was fully constructed, vide order dated 08/10.01.2008 (P-6), the order of resumption was set aside. Though, it was observed that the Junior Engineer, who had issued the DPC certificate and allowed the site to be constructed, was liable for a disciplinary action under the Haryana Civil Services (Punishment and Appeal) Rules, 1987. The petitioner, thereafter, obtained the occupation certificate dated 23.10.2008 (P-7), and since then, he was/is running an industrial unit at site.

2) However, being aggrieved, the respondent authorities assailed the order dated 08/10.01.2008 (*ibid*), in revision under Section 17(8) of the 1977 Act. And, the Revisional Authority, vide order dated 27.04.2011 (P-8), in complete disregard to the true and actual situation, as also the law, set aside the order passed by the Appellate Authority. But, since the order dated 27.04.2011 was never communicated to the petitioner at any stage, he remained oblivious of any such order. Which is why, it was after a delay of about five years, the petitioner, through his

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General Power of Attorney (Sushil Kumar), assailed the said order vide CWP-5530-2016. And, vide an interim order, this Court required him to place on record the memorandum/grounds of appeal (*ibid*), to ascertain, whether it was he or his GPA, in his personal capacity, had filed the appeal against the order of resumption. Further, vide another order, he was directed to furnish an affidavit, if each of the proceedings/stages in the proceedings were adopted by him or his constituted attorney on his behalf or by the constituted attorney on his own behalf. However, on 08.08.2016, the petitioner withdrew the said petition with liberty to file afresh with better particulars. Whereafter, he, through his GPA, filed **CWP-20436-2016**, which too was withdrawn on 19.01.2017. But, with liberty to the original allottee to file afresh. A third petition (**CWP-9627-2017**), filed by the petitioner, was also withdrawn, since he intended to move the Revisional Authority and seek review of the order dated 27.04.2011. But, since the review application moved by the petitioner was dismissed on 30.10.2017 (P-19), without affording him a hearing, he was constrained to approach this Court yet again vide **CWP-27778-2017**. Accordingly, the said petition was disposed of on 18.12.2017 (P-20), requiring respondent No.1 to re-decide the review application. But, once again, respondent No.1, vide order dated 10.12.2019 (P-21), declined to review the order dated 27.04.2011, for there was no provision for review, under the 1977 Act. This impelled the petitioner to again approach this Court vide **CWP-9214-2020**. Initially, on 06.07.2020, this Court had issued notice to the respondents. But, vide order dated 01.05.2023 (P-25), the petition was disposed of, since the

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petitioner intended to pursue the matter with the concerned department itself. However, vide order dated 14.12.2023 (P-26), the Additional Chief Secretary, Industries and Commerce Department, dismissed the appeal (No.50 of 2023), filed by the petitioner. Whereafter, he also moved an application, seeking recalling of the said order. But that too was dismissed on 18.03.2024 (P-27). And, now that the respondent-Corporation, vide communication dated 10.04.2024 (P-28), required the petitioner to handover vacant possession of the subject site/plot to the Estate Manager, HSIIDC, Panipat: thus, this petition.

3) Learned Senior counsel for the petitioner submitted that it was not in dispute that the petitioner, per the letter of allotment, had deposited the total sale consideration/premium, in time. It is urged that the building plans were sanctioned on 22.12.2005, but, surprisingly, within seven days, on 29.12.2005, the site was resumed, for the petitioner had failed to construct the same and start commercial production, per the conditions of the allotment. He submitted that the specific case set out by the petitioner is that he was never served with the order of resumption dated 29.12.2005. And, in fact, neither was he served with any notice, nor was afforded any hearing, before the said order was passed by the authorities. Resultantly, being oblivious of any such development, the petitioner, soon after the building plans were sanctioned, started construction. And, as indicated earlier, for the construction, up to plinth level, was complete, he was issued the DPC certificate dated 08.12.2006. Further, after the site was fully constructed, he, on 19.06.2007, applied for completion certificate. And it was, at that stage, he learned that the

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subject site had already been resumed. But, as indicated earlier, in an appeal preferred by the petitioner, the Appellate Authority set aside the order of resumption. Whereupon, a conveyance deed No.645 dated 30.04.2008 was executed in favour of the petitioner by the Assistant Estate Officer, HUDA, Panipat. Not only that, on 23.10.2008, he was also issued the occupation certificate. However, the Revisional Authority, vide impugned order dated 27.04.2011, affirmed the order of resumption. Be that as it may, it is submitted that an industrial unit, being run by the petitioner at site, is fully functional. In this regard, attention of the Court was drawn to the VAT certificate(s), appended with the petition as P-13. Further, the electricity meter was installed in the premises and the petitioner also possessed the GST number. And, finally, he submitted that resumption, being the last resort, ought to be ordered only in extreme cases, and the matter at hand was certainly not the case, where the order of resumption passed by the authorities could be justified. Accordingly, reliance was placed upon the decision of the Supreme Court in **Teri Oat Estates (P) Ltd. Vs. U.T. Chandigarh and others, (2004) 2 SCC 130**, as also the judgment of the Full Bench of this Court in **Dheera Singh Vs. U.T., Chandigarh Administration and others, 2012 (4) RCR (Civil) 970**. Similarly, he also relied upon the decisions of the Division Benches of this Court in **Sandeep Kumar Vs. Haryana Urban Development Authority and others, 2009 (5) RCR Civil) 673**; **Veena Rani Vs. State of Haryana and others, 2017 (5) RCR (civil) 85**.



4) We had heard learned Senior counsel for the petitioner. As also the learned counsel for the respondents, who, upon being served with the advance copy of the petition, were present in Court.

5) Vide letter of allotment dated **12.04.2001**, an industrial site/plot was allotted to the petitioner, subject, however, to certain terms/conditions, and the provisions of the 1977 Act. Therefore, to address the issue(s) that arises for consideration, it would be expedient to refer to clause **10, 13, 17** and **25** of the letter of allotment, which read as thus:-

“10. In the event of breach of any other condition of transfer the Estate Officer may resume the land in accordance with the provisions of section 17 of the Act.

13. The plot/building shall not be used for any purpose other than that for which it has been allotted in accordance with the plan approved by the competent authority. No obnoxious trade shall be carried out on any land/building.

17 i) You will have to start the construction of building within a period of one years as approved building plan from the issue of the final letter of allotment/offer of possession

ii) The unit must go into production after constructing minimum 25% of permissible covered area of plot within a period of Three years. The permissible covered area shall be determined as per the provision of the HUDA Act & rules.

iii) In case you fail to do so this plot is liable to be resumed and the whole or part of money paid if any, in respect of it will be forfeited is accordance with the rules & regulations/industrial policy.

25. The possession of Plot can be obtain any working day.”

6) *Ex facie*, clause **17(i)** required the petitioner to start construction, per approved building plan, **within one year** from the issuance of the letter of allotment/offer of possession. And, in terms of



clause 17(ii), after constructing minimum 25% of permissible covered area, the petitioner/allottee was obliged to start production within **three years**. Further, per clause 17(iii), in the event of default in complying with any of the above conditions, the subject site/plot was liable to be resumed. We may also hasten to point out that per **clause 25**, the petitioner was offered possession on **12.04.2001** itself. And, it was not his case, at any stage, that albeit he was offered possession, but the authorities failed to deliver the actual physical possession of the subject site. A period of over four years had elapsed. But the petitioner had not even submitted the building plans, leave alone constructing the site, and start production, per the terms of allotment. Resultantly, he was served with a show cause notice (No.9074 dated 01.08.2005), under Section 17(3) of the 1977 Act, for **resumption and forfeiture**. And, as indicated in the order of resumption (**and not controverted**), the petitioner submitted a reply thereto. Whereupon, per requirement of Section 17(4), vide office memorandum No.11061 dated 05.09.2005, he was even afforded a personal hearing. But, he chose not to appear before the Estate Officer, HUDA, Panipat, who was in seisin of the resumption proceedings. Apparently, the petitioner had failed to comply with the terms/conditions of allotment. And, for the purpose for which the site was allotted was frustrated, the authorities were choice-less, but to order resumption.

7) The grievance that is sought to be made by the petitioner that although, the building plans were sanctioned by the Estate Officer, Panipat, on 22.12.2005, but shockingly, just seven days thereafter, vide



order dated 29.12.2005, the site was resumed, is not just **misconceived** but even **misleading**. For the petitioner **purposely** does not indicate the date when he actually submitted the building plans for approvals/sanctions. What we have been able to unravel from the records is that, after the resumption proceedings had already been initiated and a show cause notice dated **01.08.2005** (*ibid*) was issued, the petitioner hurried to submit the building plans on **12.08.2005**. And also managed to obtain the actual/physical possession of the site on **14.09.2005**. What surprises us the most is that even though, the time indicated in sub-clause (i) and (ii) [*ibid*] had already run out, and the competent authority was already in seisin of the resumption proceedings, the concerned official(s) not only processed the building plans, but even accorded final approvals/sanctions on **22.12.2005**. But, the question that captivates our attention is: once the building plans were approved/sanctioned on 22.12.2005, why did the petitioner still refrain from joining the pending resumption proceedings, state his case and apprise the Estate Officer that building plans had since been approved? The reasons are not far to seek. For, that would have exposed the nexus between the petitioner and the officials, leading to serious ramifications. Further, for the petitioner, at that stage, had no defence, least plausible, to justify the default either. So, as advised, he quietly suffered the order of resumption. But, not for nothing. For, even though, post resumption, the petitioner was left with no right/title/interest in the subject site, but, with the unflinching support of the officials, he was able to carry out construction over the resumed site/plot. It does not end there, as the Junior Engineer, Estate Office,



Panipat, even issued him the DPC certificate on **08.12.2006**, certifying completion of construction up to plinth level. Whereafter, the petitioner, notwithstanding that the site had already been resumed, completed the entire construction, and applied for completion certificate on 19.06.2007. Obviously, for the order of resumption and occupation certificate could not co-exist, the time had come to assail the order of resumption. As particularly, by then, the petitioner had also created a fairly arguable case for himself. Which is why, he introduced a version that it was only when, vide communication dated **21.06.2007**, he was asked to furnish a rain water harvesting certificate, he learnt that subject site was resumed on **29.12.2005**. But, that is not true. For, as indicated earlier, the petitioner was served with the show cause notice dated 01.08.2005, under Section 17(3) of the 1977 Act. And, concededly, he even filed a reply thereto. We are also reminded to point out that vide GPA No. 1666/4 dated 16.02.2006, SR Mehona, District Bhind (Madhya Pradesh), the petitioner appointed Sushil Kumar son of Ram Kumar as his GPA holder. And, a bare reading of the said document (appended with CWP-5530-2016) reveals that Sushil Kumar was authorized to pursue any pending proceedings regarding the subject plot/site, engage an Advocate, file a writ petition etc. Therefore, what needs to be noticed is, if the petitioner actually acquired knowledge of the order of resumption, when he submitted response to the communication dated **21.06.2007** (*ibid*), as is his case, where was the occasion to execute a GPA on **16.02.2006**. Thus, it is conclusively proved that the petitioner was fully and always aware of the resumption proceedings as also the order dated 29.12.2005 (*ibid*).



8) Now that the petitioner had pleaded knowledge of the order of resumption, a time barred appeal, under Section 17(5) of the 1977 Act, was filed by Sushil Jain (GPA) against the said order. And, upon analysis of the records, even the Appellate Authority, vide order dated 10.01.2008, concluded: **(a)** the entire construction was carried out on the resumed site; **(b)** the DPC certificate was issued, though the site had already been resumed; **(c)** the Estate Officer failed to safeguard its property; **(d)** the Junior Engineer, who issued the DPC certificate, was liable for a disciplinary action; and **(e)** but, now that the site had been fully constructed, the order of resumption was set aside. Accordingly, the site was restored, subject, however, to the condition(s) that petitioner would pay the extension fee and other dues, and start production within six months, failing which, the order of resumption would come into force automatically:-

“...The DPC certificate was also issued for the resumed plot. Now the building is complete as is evident from the photograph and spot inspection of the undersigned. Meaning thereby, that the construction work was completed over the plot after the resumption order was passed. As such, in these circumstances, the order of resumption is not tenable in the eyes of law.

Keeping in view the above facts, I order the restoration of plot No.199, Sector 25-II, Panipat with the condition that the appellant will pay the extension fee and other dues and start production within six months from the passing of this order failing which the order of resumption passed by Estate Officer, HUDA, Panipat dated 29.12.2005 would come into force automatically. At the same time the Estate Officer has not taken any action to safeguard its property after resumption orders were passed. The Junior Engineer who has



issued DPC certificate and allowed the construction to be complete is liable for disciplinary action under rule-7 of Haryana Civil Services (Punishment and Appeal) Rules-1987.”

9) It would be apposite to point out, at this juncture, that nothing is stated in the petition, if the petitioner ever complied with the conditions, subject to which the site was restored. Nothing is brought on record either, which indicates that in compliance to the order passed by the Appellate Authority (*ibid*), he deposited the extension fee, set up an industry and started commercial production. Thus, the irrefutable presumption that permeates the record is that petitioner failed to comply with the order passed by the Appellate Authority (*ibid*).

10) However, in the meanwhile, aggrieved by the order dated 08/10.01.2008 (*ibid*), the respondent authorities, on **23.06.2008**, preferred a revision under Section 17 (8) of the 1977 Act. The records show that even the Revisional Authority examined the matter at length, whereupon, it concluded that the original allottee had failed to construct the site and start production, per the terms/conditions of allotment. And, in fact, **Sushil Jain** (GPA), in connivance with the officials, illegally/unauthorisedly carried out the entire construction. The **original allottee** was nowhere in the picture. Though the subject site was allotted to set up a specific industry, but it was constructed for **residential purposes**. But still, being cognizant that resumption is the last resort, and before passing the formal orders, on 19.04.2011, directed the Estate Officer, HUDA, Panipat, to ascertain, if any industrial unit was actually being run at site. Accordingly, vide memo dated 26.04.2011, a report



was submitted per which, the building erected at site was checked by the Junior Engineer and it was found that the same was neither being used for industrial nor residential purposes. No plants/machineries were installed in the premises either. The building was lying closed permanently. Similarly, a separate report was also sought from the District Town Planner (DTP), who, vide memo dated 19.04.2011, informed that since gates of the building were locked, he could not inspect the premises/building from inside. But, per the information gathered from the neighbours, it was lying locked for the last 7-8 months. And, that being so, the Revisional Authority was choice-less, but to set aside the order passed by the Appellate Authority. Further, the Chief Administrator, HUDA, was directed to hold an enquiry, as to how, the building plans were sanctioned; resumed site was allowed to be constructed; DPC certificate was issued; and water connection was released. And, thus, the defaulting officials were required to be punished for their misconduct:-

“Before deciding the case on 19.04.2011, directions were given to find the present status of the plot as to whether it is being used for industrial purposes or is being used for residential purposes as it seems from the photograph given by the Advocate that the plot is being used for residential purposes. Report was called from the Estate Officer on 19.04.2011 and the case was adjourned for hearing on 27.04.2011.

Today vide Memo No.A-II-11/5301 dated 26.04.2011 Estate Officer, HUDA, Panipat has reported that building of Indl. Plot No.199, Sector-25-II, Panipat has been checked by the Junior Engineer and found that the building is neither used for residential purpose nor for industrial. No



machineries etc. are there in the building and it is lying closed permanently. Report from DTP, Panipat was also called who informed vide Memo No.908, dated 19.04.2011 that the site was inspected and it was found that there is two story building with mummy on this plot. The gates were locked and there is no way to get inside the building. A board "Dream Touch" is installed on the building. As per the information obtained from neighbors, this building is lying locked for last 7-8 months.

From both the reports received from the Estate Officer and DTP, Panipat, it is clear that building has been constructed by Sh. Sushil Jain and no industrial activity is being carried out at site. The building has been raised unauthorisedly in connivance with HUDA officials. The original allottee in this case failed to raise construction and start production as per terms and conditions of the allotment letter in given period. Unauthorized constructions on the HUDA property needs to be restrained. The GPA has raised the construction only for residential purposes. He was not the owner of the owner of the property. Original owner to whom the industrial plot was allotted for a specific project is nowhere in the picture. In this circumstances I accept the Revision Petition filed by the Estate Officer and set aside the order of the Administrator vide which he restored the plot in favour of the allottee.

"The officials of the Estate Office also needs to be punished for their misconduct. Therefore Chief Administrator, HUDA, is directed to hold an enquiry in this case that how the building plan on the plot was sanctioned for a resumed property, when the DPC certificate was issued, water connection was released and GPA was allowed to raise construction on the plot. The defaulting officials found guilty as per enquiry should be punished as per rules."

The order was announced in the presence of the parties.

Be communicated to them."



11) It would be crucial to point out, at this stage, for the petitioner chose not to assail the order dated 27.04.2011, passed by the Revisional Authority, any further, the same attained finality. But, as indicated earlier, it was after **five years** that the petitioner approached this Court vide CWP-5530-2016, assailing the order of resumption, as also the order dated 27.04.2011 (*ibid*). Significantly, while sifting through the paper book, and since, prior to the institution of this petition, the petitioner had even earlier filed **five successive petitions**, centered on the same cause of action, we requisitioned the records of CWP-5530-2016; CWP-20436-2016; CWP-9627-2017; CWP-27778-2017; and CWP-9214-2020. And, for we found that few of the order(s), before the petitioner withdrew each of those petitions, have either been suppressed or were not complied with, a reference thereto is **indispensible**. But, before we proceed any further, we consider it imperative to refer to certain observations and concerns expressed by the Supreme Court, in a situation, that was somewhat similar: *Kishore Samrite Vs. State of U.P. and others, 2013 (2) SCC 398:-*

“31. It has been consistently stated by this Court that the entire journey of a Judge is to discern the truth from the pleadings, documents and arguments of the parties, as truth is the basis of the Justice Delivery System.

32. With the passage of time, it has been realised that people used to feel proud to tell the truth in the Courts, irrespective of the consequences but that practice no longer proves true, in all cases. The Court does not sit simply as an umpire in a contest between two parties and declare at the end of the combat as to who has won and who has lost but it has a legal duty of its own, independent of parties, to take active role in the proceedings and reach at the truth, which is the



foundation of administration of justice.....It is the bounden duty of the Court to ensure that dishonesty and any attempt to surpass the legal process must be effectively curbed and the Court must ensure that there is no wrongful, unauthorised or unjust gain to anyone as a result of abuse of the process of the Court. One way to curb this tendency is to impose realistic or punitive costs.”

(i) In the first petition (CWP-5530-2016), a Coordinate Bench, on 25.05.2016, had passed the following order:-

“At the request of the petitioner, adjourned to 26.07.2016.

The petitioner shall produce the records including the proceedings filed at various stages in order to ascertain whether the same were taken out by the petitioner or the petitioner’s constituted attorney on his behalf or whether the same were taken out by the alleged constituted attorney on his own behalf. The petitioner shall also file an affidavit stating whether each of the proceedings/stages in the proceedings were adopted by him or his constituted attorney on his behalf or by the constituted attorney on his own behalf.”

The said order was never complied with. And, on 08.08.2016, the petitioner withdrew the petition with liberty to file afresh:-

“xx xx xx xx

Learned counsel for the petitioner states that she may be allowed to withdraw the present writ petition with liberty to file a fresh one on the same cause of action after complying with the aforesaid order dated 25th May, 2016 and placing on record the relevant documents.

Dismissed as withdrawn with liberty as prayed for.”

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(ii) Whereafter, he filed CWP-20436-2016, that came up on 20.10.2016:-

“The petitioner had executed a General Power of Attorney (GPA) in favour of Sushil Kumar on 16.02.2006.

Let the original copy of the GPA along with an explanation for not approaching this Court for the last 5 years be filed as the impugned order Annexure P-8 was passed on 27.04.2011.

Adjourned to 23.11.2016.”

But, again, on 19.01.2017, the petitioner withdrew the petition:-

“As prayed for, the writ petition is dismissed as withdrawn.

Subject to the petitioner's satisfying the inordinate delay and laches, liberty is granted to file a fresh petition on the same cause of action by the original allottee. He will explain that under which authority the General Power of Attorney could be executed. He shall also produce the registered cancellation deed of the General Power of Attorney.”

(iii) However, the third time, when he approached this Court (CWP-9627-2017), the Coordinate Bench, being cognizant that the order dated 27.04.2011 (*ibid*), was sought to be assailed after a delay of five years, and the explanation being tendered that petitioner was never served with the said order, on 05.05.2017 ordered:-

“Since the petitioner in order to explain the delay and laches has taken a plea that the revisional order dated 27.04.2011 (P-8) was not conveyed to him, let him deposit a sum of Rs.1.00 lac with the Registrar Judicial within one week alongwith an undertaking that he is ready to face the consequences in case the plea taken is found to be false.



List on 10.07.2017.”

Further, since on the adjourned date (12.07.2017), the matter came up before another Bench, once again, the petitioner withdrew the petition. But this time to seek review of the order passed by the Revisional Authority. However, knowing how crucial the order dated 05.05.2017 was, the Division Bench, while disposing of the petition, specifically observed that the same shall be brought to the notice of the Revisional Authority or any Court or Tribunal the petitioner may approach:-

“The petitioner seeks to withdraw the petition as he intends adopting the alternate remedy of filing a review application before the Financial Commissioner, Haryana also on the ground that the revisional order dated 27.04.2011 was not conveyed to him.

2. The order of this Court dated 05.05.2017 shall also be brought to the notice of the Revisional Authority or before any Court or Tribunal that the petitioner may approach. Needless to add that the petitioner is also entitled to take any other ground. We do not express any opinion regarding the maintainability of any alternate proceedings that the petitioner may adopt.

3. The writ petition is accordingly disposed of.”

But, there being no provision for review in the 1977 Act, the Principal Secretary, Government to Haryana, Town & Country Planning Department, on 10.12.2019, dismissed the review application filed by the petitioner.

(iv) And, yet again, the petitioner filed another petition (CWP-9214-2020), laying challenge to the same orders, as also the order dated 10.12.2019 (*ibid*). But, as can be safely inferred, for the Court was



not inclined to interfere, the petitioner, on 01.05.2023, again withdrew the petition to pursue the matter before the concerned department:-

“Learned counsel for the petitioner prays for withdrawal of the writ petition as the petitioner wants to pursue remedy before the Department concerned.

Disposed of, as withdrawn, with liberty aforesaid”.

12) Albeit, the records show that it was during the pendency of CWP-9214-2020 itself, the petitioner had preferred an appeal, and surprisingly, this time, to the Appellate Authority-cum-Additional Chief Secretary to Government of Haryana, Industries and Commerce Department. Who, upon a thorough analysis of the matter, vide order dated 14.12.2023, concluded:-

“The appellant has concealed the material fact that the appellant has filed a CWP in the Hon’ble High Court against the resumption orders which was withdrawn by the appellant on 12.07.2017. Thereafter, the appellant filed review application before Financial Commissioner and Principal Secretary to Government of Haryana, Town and Country Planning Department for review of order dated 27.04.2011 which was dismissed on the ground of non maintainability vide order dated 30.10.2017.”

xx xx xx xx

In view of the above, I am of the considered view that there is no remedy available to the appellant which he can pursue before this authority. In view of the legal position, this appeal is hereby dismissed being not maintainable. The pending applications, if any, also stands dismissed.”

13) Now when the petitioner was/is served with the notice dated **10.04.2024** to handover vacant possession of the subject site, he, vide the



instant petition, is again before this Court. What needs to be noticed is that this brings us back, after a circle of **eight long years**, to the same position, when the petitioner first approached this Court vide **CWP-5530-2016**, assailing the same order (dated 27.04.2011). And, that being so, we are impelled, once again, to refer to the order dated 05.05.2017, **(though reproduced at page 17)**, passed by the Coordinate Bench in the third petition (CWP-9627-2017):-

“Since the petitioner in order to explain the delay and laches has taken a plea that the revisional order dated 27.04.2011 (P-8) was not conveyed to him, let him deposit a sum of Rs.1.00 lac with the Registrar Judicial within one week alongwith an undertaking that he is ready to face the consequences in case the plea taken is found to be false.

List on 10.07.2017.”

Of course, the petitioner never complied with the order, referred to above. And, as indicated earlier, he withdrew the petition on the adjourned date. But, significantly, neither the said order is appended with this petition, nor its contents are disclosed. Further, for the petitioner repeatedly averred and still maintains that the order dated 27.04.2011 was not in his knowledge, we must not leave this issue unaddressed either. The records show that the matter before the Revisional Authority was vigorously pursued by the petitioner. And, as is discernible from the order dated 27.04.2011 itself, the same was pronounced in the presence of the parties and their respective counsel. Further, in the written arguments submitted by the petitioner on 30.11.2017, while seeking review of the said order, he never pleaded that neither was he served with the order dated 27.04.2011, nor the same was in his knowledge. Not only



that, this is also not his case that although, he diligently pursued his claim/interest before the Revisional Authority, but, after the matter was heard, he never chose to even ascertain its fate and status for five long years. Nothing is indicated in the petition either, if the petitioner was oblivious of the said order, then how and when it actually came to his notice. Thus, the plea that the order dated 27.04.2011 was not in the knowledge of the petitioner is apparently false and misleading. In the given circumstances, we consider it expedient to even refer to the observations recorded by the Supreme Court in **Ramrameshwari Devi and others Vs. Nirmala Devi and others, 2011 (8) SCC 249:-**

“50. Learned amicus articulated common man’s general impression about litigation in following words: “Make any false averment, conceal any fact, raise any plea, produce any false document, deny any genuine document, it will successfully stall the litigation, and in any case, delay the matter endlessly. The other party will be coerced into a settlement which will be profitable for me and the probability of the court ordering prosecution for perjury is less than that of meeting with an accident while crossing the road.”

14) Adverting to the argument advanced by the learned Senior counsel, no doubt, the petitioner had deposited all the installments. But his grievance that he was unable to raise construction within the stipulated time, owing to non-sanctioning of the building plans, as demonstrated above, is apparently false and misleading. Similarly, the plea, now that the subject site has been constructed and the petitioner has even obtained the occupation certificate, the order of resumption be set



aside, would not enure to his advantage either. For, concededly, the entire construction was illegal and raised unauthorisedly **over the resumed site**. But, as indicated earlier, **despite that** the Appellate Authority, even after **seven years** of the site being allotted, afforded yet another chance to the petitioner and restored the site. Subject, however, to the condition that he shall deposit the extension fee and other dues, and start production within six months. However, the petitioner chose not to comply with the said order. But, again, the custodian of the State's resource/wealth/property, who, probably, had turned adversary, notwithstanding that the petitioner had not complied with the conditions subject to which the site was restored, and de hors the pending revision, filed by the respondent authorities itself, not only executed the deed of conveyance dated **30.04.2008**, in his favour, but even issued the occupation certificate on **23.10.2008**.

But, despite that, even the Revisional Authority, before passing a formal order, sought reports to ascertain, **if, even at that stage, the site was actually being used for the purpose it was allotted**. But, as enumerated above, on the basis of the two separate reports, submitted by the senior officers, concluded that Sushil Jain (GPA) had rather constructed a residential unit upon an industrial plot. No plants/machineries were installed in the premises. The building was lying closed permanently and gates were locked for the past 7-8 months:-

“From both the reports received from the Estate Officer and DTP, Panipat, it is clear that building has been constructed by Sh. Sushil Jain and no industrial activity is being carried out at site. The building has been



raised unauthorizedly in connivance with HUDA officials. The original allottee in this case failed to raise construction and start production as per terms and conditions of the allotment letter in given period. Unauthorized constructions on the HUDA property needs to be restrained. The GPA has raised the construction only for residential purposes. He was not the owner of the property. Original owner to whom the industrial plot was allotted for a specific project is no wherein the picture.....”

We are reminded to point out, at this stage, that neither veracity of the two reports (*ibid*), nor the findings recorded by the Revisional Authority are even remotely questioned or challenged in the petition.

15) The VAT certificate (P-13), upon which reliance is being placed by the petitioner to show that an industry was being run at site, would not advance his case either. For, a bare analysis of the document (Form VAT-R1) reveals that it relates to the first and the second quarter of the year 2015-16, from 01/04/2015 to 30/06/2015 and 01/07/2015 to 30.09.2015. And, in the column that contains dealer's identity, name and style of business, name of **Parth Sunidhi Raj & Co.** is recorded. Nothing is indicated in the petition, if the petitioner himself was running any such business under the said name and style. And, it was he, who submitted those (VAT) returns. The only reason the said document is sought to be relied upon: the number of the subject site/plot is shown in the address column. Thus, it can be safely presumed that the petitioner was/is not even remotely connected with the said certificate. Be that as it may, the claim of the petitioner that he was running a small scale industry



since 2010, and therefore, the subject site was utilized for the purpose it was allotted, is again **delusive**.

Upon being pointedly asked, learned Senior counsel for the petitioner could not refer to any material on record to show: **(a)** when did the petitioner set up an industrial unit; **(b)** nature of the industry that was/is being run at site; **(c)** number of workmen/employees employed; **(d)** muster rolls; **(e)** records in relation to the statutory obligations that are required to be discharged under the Labour Laws; **(f)** wages/salaries that were being disbursed to the workforce; **(g)** annual turnover/accounts, if any such industry was ever operative at site; **(h)** water/electricity bills that were being paid; and/or **(i)** any conceivable material, whatsoever, that could indicate the actual usage of the site by the petitioner/allottee.

Therefore, it would be apposite, at this juncture, to refer to the decision of the Supreme Court in **Dalip Singh and others Vs. State of Haryana and others, 2019 (11) SCC 422**, wherein, while dealing with a similar situation, it unequivocally observed that **construction of building and commencement of the production are the integral part of the terms/conditions of the allotment:-**

“15. As discussed earlier, the industrial plots were allotted at a very reasonable rates/concessional rates with a view to provide incentives to the allottees/entrepreneurs with intent to ensure industrial growth and economic development of the State and generation of adequate employment opportunities. These allotments are not only governed by the provisions of HUDA Act, 1977 Rules and Regulations framed thereunder but also by the provisions of the industrial policy of the State. Construction of building and commencement of



production are the integral part of the terms and conditions of the order of allotment. The appellate and Revisional authority as well as the High Court cannot be faulted for the observation that the buildings were not constructed for twenty long years after allotment. If the construction of the building was really complete, the appellants could have very well filed the completion certificate; but that was not to be so. It is pertinent to note that in the reply dated 14.11.2003 of the said Rakesh Sarna (GPA) of Satyawati, it is stated that “we will construct the building within six months from the receipt of missing documents”. We fail to understand that why the said Rakesh Sarna (GPA) should undertake to construct the building within six months from the date of receipt of missing documents. In this regard, we may usefully refer to the order of the Revisional authority which has referred to the comments of the Estate Officer received vide Memo No.19584 dated 23.12.2013 where it was stated as under:-

“...it is clear that there was no construction till the passing of resumption order and whatever construction was raised, was raised illegally after expiry of stipulated period. Therefore, on this ground also, the Revision Petition deserves dismissal....”

16) Adverting to the judgments rendered in *Teri Oat Estates (P) Ltd.*; and *Dheera Singh (supra)*, suffice it to say that there cannot be any quarrel with the proposition of law laid down in the two decisions: power of resumption is to be used only as the last resort. Particularly, where the allottee has no intention, at all, to pay. And not in a case, where there is a mere failure to pay, and from the facts, it can be ascertained that the default is not willful. **However, in conspectus of the factual position obtaining in this case, quite clearly resumption was the only and the inevitable option.**



17) We have also examined the decision in **Sandeep Kumar (supra)**. Undoubtedly, vide a similar letter of allotment dated 02.05.2001, the petitioner was allotted an industrial site. But, owing to non-construction, the same was resumed. Thus, this Court, while interpreting **clause 6 (ii)** of the allotment letter, (extracted below), concluded that the period of three years, envisaged under **clause 17** of the letter of allotment was not inflexible:-

“6 (ii) Rebate equivalent to 20% of the land will be given if the industrial unit starts commercial production within 3 years of the offer of possession of industrial plot.”

As demonstrated even earlier, clause 17 (i) [referred to at page 7] postulates that the allottee **shall** start construction within **one year**, as per the approved building plans, from the issuance of the letter of allotment/offer of possession. And, sub-clause (ii) stipulates that **after constructing 25%** of permissible covered area, the unit **must** go into **production within three years**. Whereas, clause 6 (ii) envisages that the rebate equivalent to 20% of the land would be given if the **industrial unit starts commercial production within three years** of the offer of possession. *Ex facie*, sub-clauses (i) and (ii) of clause 17 operate in tandem and are time sensitive. Grafted with a clear purpose: **to ensure that the site is utilized for the purpose it is allotted within the stipulated time**. Whereas, clause 6 (ii) is a standalone and independent provision, which promises an incentive to the allottee, provided he is able to set up the industry and start commercial production within three years of the offer of possession. But that cannot be construed to mean, if he fails to meet the requirement envisaged under clause 6(ii), it would soften



the rigours or impair the requirement of clause 17(i) and (ii), in any manner. And leave the two clauses ambiguous, loose and indefinite. Further analysis of clause 6(ii) also shows that the **two** crucial expressions which are the essence of the said provisions are “**industrial unit starts commercial production**”. Whereas, clause 17(ii), merely states “**unit must go into production.**” Meaning thereby, per clause 17 (ii), the unit, after 25% of the construction is carried out, should be production worthy/ready. But, in terms of clause 6 (ii), the allottee would be entitled to rebate, only if the fully equipped industry comes in production and is commercially viable. Be that as it may, even otherwise, in the facts and circumstances of the present case, the said decision would have no bearing.

18) We have also examined the decision rendered by the Coordinate Bench, of which, one of us was a member, in **Veena Rani (supra)**. Clearly, the said decision too has no application on the matter in issue.

19) Before we part with, we are reminded to point out that the Appellate Authority, while deciding the appeal, was constrained to observe that the concerned official(s) was liable for disciplinary action under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987. Similarly, even the Revisional Authority was impelled to record that the officials of the Estate Office were required to be punished for their misconduct. And, accordingly, the Chief Administrator, HUDA, was directed to hold an enquiry, so that those found guilty are punished, as per rules:-



“The officials of the Estate Office also needs to be punished for their misconduct. Therefore Chief Administrator, HUDA, is directed to hold an enquiry in this case that how the building plan on the plot was sanctioned for a resumed property, when the DPC certificate was issued, water connection was released and GPA was allowed to raise construction on the plot. The defaulting officials found guilty as per enquiry should be punished as per rules.”

Upon being pointedly asked, learned counsel for the respondent-HSVP, as also the HSIIDC, on instructions, submitted that no disciplinary proceedings, pursuant to the orders referred to above, were ever initiated. Over 13 years have gone by, post order passed by the Revisional Authority. What dissuaded the senior functionaries of the Department to probe the matter, we are sanguine that they, for sure, would have the reasons therefor. Cogent or otherwise. We rest the matter at that.

20) At the end, we cannot resist but observe that to set the records straight, we had to delve deep into every possible proceedings, the petitioner had initiated/invoked/availed. And, in the wake of the position sketched out in the preceding paragraphs, the only and the inevitable conclusion that could be reached: the case of the petitioner is based upon falsehood, clearly there was/is a conscious and calculated suppression of crucial facts as also the orders passed by this Court, the successive petitions filed and withdrawn by the petitioner reveal that he was circumventive, artful and insidious, and, indeed, abused the judicial process to the hilt. Often, particularly of late, the **judicial process, time, resources and infrastructure** are abused by unscrupulous and litigious.



At the cost of a litigant, pursuing a genuine cause, who quietly wait for his/her turn to mature, with unflinching faith and trust, even though the previous generation perished, while pursuing the cause. Our research for a decision that dealt with the same sentiment, in the similar settings, ends with the judgment of the Supreme Court in **Dnyandeo Sabaji Naik and Anr. Vs. Mrs. Pradnya Prakash Khadekar and Ors., 2017 (5) SCC 496,** which we rely upon with reverence:-

“14. Courts across the legal system - this Court not being an exception – are choked with litigation. Frivolous and groundless filings constitute a serious menace to the administration of justice. They consume time and clog the infrastructure. Productive resources which should be deployed in the handling of genuine causes are dissipated in attending to cases filed only to benefit from delay, by prolonging dead issues and pursuing worthless causes. No litigant can have a vested interest in delay. Unfortunately, as the present case exemplifies, the process of dispensing justice is misused by the unscrupulous to the detriment of the legitimate. The present case is an illustration of how a simple issue has occupied the time of the courts and of how successive applications have been filed to prolong the inevitable. The person in whose favour the balance of justice lies has in the process been left in the lurch by repeated attempts to revive a stale issue. This tendency can be curbed only if courts across the system adopt an institutional approach which penalizes such behavior. Liberal access to justice does not mean access to chaos and indiscipline. A strong message must be conveyed that courts of justice will not be allowed to be disrupted by litigative strategies designed to profit from the delays of the law. Unless remedial action is taken by all courts here and now our society will breed a legal culture based on evasion instead of abidance. It is the duty of every court to firmly deal with such situations. The imposition of exemplary costs is a necessary instrument which has to be



deployed to weed out, as well as to prevent the filing of frivolous cases. It is only then that the courts can set apart time to resolve genuine causes and answer the concerns of those who are in need of justice. Imposition of real time costs is also necessary to ensure that access to courts is available to citizens with genuine grievances. Otherwise, the doors would be shut to legitimate causes simply by the weight of undeserving cases which flood the system. Such a situation cannot be allowed to come to pass. Hence it is not merely a matter of discretion but a duty and obligation cast upon all courts to ensure that the legal system is not exploited by those who use the forms of the law to defeat or delay justice. We commend all courts to deal with frivolous filings in the same manner.”

21) In conspectus of the above, we are dissuaded to interfere in the matter. The petition, being bereft of merit, is accordingly dismissed, subject, however, to costs of Rs.5,00,000/- (Five Lakh), to be deposited with the PGI Poor Patient Welfare Fund, Chandigarh.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

20.12.2024
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes