

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20540-2018

Date of Reserve: 14.12.2023

Date of Pronouncement: 26.02.2024

Haryana Shehri Vikas Pradhikaran

....Petitioner

Versus

State of Haryana and another

....Respondents

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

Present: Mr. Deepak Sabherwal, Advocate, for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana,
Mr. Deepak Bhardwaj, Deputy Advocate General, Haryana.
Mr. Karan Jindal, Assistant Advocate General, Haryana.

Mr. S.K. Sharma, Advocate, and
Mr. Rajat Sharma, Advocate, for respondent No.2.

ARUN PALLI, J.

1. A brief narration of facts that have led the parties to the current stage would be imperative.

2. Pursuant to a re-allotment letter dated 21.01.2004 (P-1), Arun Kumar Goyal-respondent No.2 (allottee) was allotted an industrial plot No.118, Industrial Area, Phase-I, Panchkula. And per condition No.21 thereof, production, in terms of the approved project, was required to be commenced within six months. For the survey branch reported that the allottee had failed to commission the unit, he was served with a notice of resumption dated 02.12.2004, under Section 17(3) of the Haryana Urban Development Authority Act, 1977 (the Act). And eventually, for neither the site was fully constructed nor the production commenced, vide order dated 30.01.2006 (P-5), the Estate Officer, under Section 17(4) of the Act, ordered resumption of site and the building constructed thereon. Further, 10% of the consideration amount and other dues,

payable up to the date of resumption, were forfeited. The said order was assailed by the allottee in appeal under Section 17(5) of the Act. However, the Administrator, HUDA, Panchkula, (Appellate Authority), vide order dated 19.12.2014, dismissed the appeal being barred by limitation as also on merits. For against the order of resumption dated 30/31.01.2006, the appeal could be filed within 30 days. Whereas, the same was instituted on 28.12.2006. And the explanation rendered by the allottee to explain the alleged delay could not be countenanced, for it was difficult to accept that an allottee, facing resumption, was not aware of the status of the said proceedings. Further, there was an apparent violation of condition No.21 (*ibid*).

3. Whereafter, being aggrieved, he preferred a revision under Section 17(8) of the Act. And upon analysis of the matter in issue, the Revisional Authority, vide order dated 07.07.2015, concluded that order of resumption was never served upon the allottee. Thus, the observation that it was hard to accept that an allottee, facing resumption, was not aware of the status of the proceedings was equally misconceived. In fact, it was the fault of the Estate Officer that the order of resumption was sent on the wrong address. But, it was also true that per condition No.21, the allottee was required to commission the unit within six months of the allotment, i.e. up to 20.07.2004. Whereas, the allottee had submitted the building plans, seeking necessary approvals, after more than a year. However, it was not disputed either that building plans submitted by him on 06.06.2005, were kept pending by the competent authority. And no intimation was sent to the allottee either about their approval or rejection. Thus, the fault equally lay with the authorities, as they kept the claim of the allottee alive, all this while. The sales tax returns brought on record

by him w.e.f. 2010, proved that the unit was functional at site and in production. Therefore, bonafides of the allottee that he was genuinely willing to run the industrial unit were duly proved. Accordingly, the revision was allowed. And the order of resumption was set aside, subject, however, to a penalty equal to 1% of the total sales for the financial year 2014-15. Which, the allottee was required to deposit within 10 days from the date of the said order.

4. It is in this backdrop, the Haryana Shehri Vikas Pradhikaran has petitioned this Court against the order passed by the Revisional Authority (Additional Chief Secretary to Government of Haryana, Town and Country Planning & Urban Estates Departments).

5. Learned counsel for the petitioner has merely reiterated the stand set out by the petitioner before the Appellate as also the Revisional Authority: per condition No.21 of the letter, the allottee was required to commence the production within six months, i.e. up to 20.07.2004, which he apparently failed to. Even the building plans were submitted by him on 06.06.2005, i.e. after more than a year of the re-allotment of site. Although, the allottee commissioned the unit and started the production, but that was post resumption, and thus, was of no consequence.

6. Per contra, learned counsel for respondent No.2 (allottee) would support the order passed by the Revisional Authority and urged that in the given circumstances, no interfere is warranted. Particularly, for the petition at hand was filed after more than three years of the order dated 07.07.2015 (*ibid*).

7. We have heard learned counsel for the parties and perused the records.

8. Undoubtedly, an industrial plot No.118, Phase-I, Panchkula, was allotted to Arun Kumar Goyal on 21.01.2004, and per condition No.21 (*ibid*), he was required to commence production within six months. But, it is equally true that vide letter dated 07.06.2005, he informed the Estate Officer that he had submitted the building plans for necessary approval/sanction on 06.06.2005, and soon after the approvals were accorded, he would start construction. Followed by a reminder on 20.09.2005. It is not disputed either that allottee had deposited the scrutiny charges as also the expenditure qua malba and road cut etc. The specific case set out by the allottee has been that vide communication dated 24.06.2005, he was informed that his Architect should remain present in the meeting of the committee on 28.06.2005 and 05.07.2005, which was duly attended and the concerns raised by the authorities were duly met with. Whereafter, the plans submitted by the allottee were duly recommended by District Town Planner for approval/sanction, but no formal orders were passed in this regard. Concededly, the allottee, as per the approved project, commissioned the unit and started the production in the year 2010. Much before the order dated 19.12.2014, passed by the Appellate Authority. The fact that was fully substantiated from the sales tax returns that were placed on record by the allottee. Further, even the report dated 19.06.2015, submitted by the Sub-Divisional Engineer (SDE), indicates the production of steal sections at site.

9. It would be apposite to point out further that the allottee had already deposited the entire consideration/premium with the authorities. And, construction of the building/shed carried out by him was, indeed, in sync with the building plans he had submitted for approval. The unit was/is in production, as per the approved project by District Industry

Centre, Panchkula. Further, the records show that request of the allottee for completion certificate of the entire building was accepted post order of resumption was set aside on 07.07.2015. And in compliance to the said order, an amount of Rs.1,10,000/- was also deposited by him, vide DD No.424161. The specific stand set out in paragraph 5 (preliminary submissions) of the written statement filed by the allottee shows that during the financial years 2009-10 to 2017-18, he had deposited Rs.11,64,495/-, Rs.14,96,782/-, Rs.15,73,846, Rs.9,63,885, Rs.4,79,914, Rs.4,34,574, Rs.1,50,438, Rs.1,06,512, Rs.1,15,664, towards VAT & CST with the Excise and Taxation Department, Haryana. Not just that, the petition at hand, instituted in August, 2018, suffered from gross, inordinate and unexplained delay, for it was filed after more than three years of the order dated 07.07.2015. Although, pursuant to the order passed by this Court, the petitioner had furnished an affidavit dated 11.07.2019, to explain the delay, but the assertions set out therein, hardly constitute any plausible/sufficient cause. And, as indicated earlier, the unit is fully functional since 2010 and nearly a decade and a half has gone by.

10. Thus, in the given circumstances, the only and the inevitable conclusion that could be reached is: the petition, being bereft of merits, is required to be dismissed. Accordingly, for we are dissuaded to interfere with the impugned order passed by the Revisional Authority, the petition is dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

26.02.2024
AK Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No