



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

**CWP No.21478 of 2019
Date of decision: 12.09.2024.**

Raj Kumari now deceased through LRs

....Petitioners

Versus

State of Haryana and others

....Respondents

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

Present: Mr. Vikram Singh, Advocate
for the petitioners.

Mr. Deepak Sabharwal, Advocate
for the respondents.

VIKRAM AGGARWAL, J.

1. The petitioner-Raj Kumari (now represented by her LRs, Ashwani Kumar Singhal and Manish Singhal) assails the order dated 21.02.2002 (Annexure p-1) vide which residential Plot No.49, Sector 18-A, Faridabad (hereinafter referred to as the plot) was resumed, order dated 19.09.2018 (Annexure P-10) vide which the appeal against the said order was dismissed and order dated 15.07.2019 (Annexure P-11) vide which the revision petition preferred against the said order was also dismissed.

2. The residential Plot No.49, Sector 18-A, Faridabad measuring 160 sq. yards is originally stated to have been allotted to one Sat Narain Singal after which construction of a house was raised. After his death the property was transferred in name of Smt. Raj Kumari w/o Sh. Sat Narain Singal and after her death, she is represented by her legal heirs, Ashwani Kumar Singhal and Manish Singhal. Vide order dated 21.02.2002, the plot was resumed on the ground of misuse as the same was being used for a



CWP No.21478 of 2019

-2-

commercial purpose. Initially, a civil suit was filed challenging the said resumption order. However, subsequently, in CWP No.10153 of 2006, a statement was made before a Co-ordinate Bench that where resumption orders had been passed only on account of misuse of the premises, the same would be withdrawn if the misuse had been stopped. On the basis thereof, instructions were issued by HUDA on 07.11.2006 (Annexure P-3) in this regard.

3. Accordingly, the petitioners submitted a request dated 11.06.2007 for restoration of the plot. Subsequent representations were also given. The civil suit was ultimately withdrawn with liberty to file a representation before the HUDA Authorities. However, despite representations, the plot was not restored.

4. Ultimately, an appeal against the resumption order was preferred, which was, however, dismissed on the ground of limitation vide order dated 19.09.2018. The revision petition against the said order also met the same fate and was accordingly dismissed on 15.07.2019.

5. The writ petition has been opposed by the respondents. In the written statement, the resumption, dismissal of appeal and dismissal of the revision petition has been defended and it has been averred that no interference is called for in the said orders.

6. On 29.08.2024, this Bench had passed the following order:

“Learned counsel for the petitioners, inter alia, submits that vide letter/ memo dated May 29, 1979, plot/ site No.49 (measuring 160 sq. yards), situated at Sector 18-A, Faridabad was re-allotted to the father of the petitioners (Sat Narain Singal). And, upon death of their father, the property



was transferred in the name of their mother, namely, Raj Kumari, who has also since passed away. However, the said property was resumed vide order dated February 21, 2002 (P-1) owing to a misuser. He submits that predecessor-in-interest of the petitioners had constructed the site after obtaining the necessary approvals/sanctions, and were even issued the Occupation Certificate. Further, there are no outstanding dues. And, as indicated above, the only ground on which the property was resumed was a misuser. It is submitted that petitioners continue to be in actual physical possession. And, post dismissal of the revision petition preferred by them, their possession is protected by virtue of an interim order passed by a coordinate Bench of this Court on September 13, 2019, which is operative to date. Further, it is urged that at present no misuser exists at the site in question, for it is being used only for the purpose it was allotted.

As opposed to this, learned counsel for respondents No.2 & 3- HSVP has drawn our attention to the order of resumption dated February 21, 2002 (P-1). And submits that before the said order was passed, an inspection was carried out and the report furnished by the concerned agency conclusively proves that the residential house built up on the site was being used for commercial purposes.

Be that as it may, learned counsel for respondents No.2 & 3- HSVP prays for a short accommodation to furnish a specific report indicating if the misuser at site continues. And, if at all that misuser has ceased to exist, then since when the property is being used for residential purposes.

As prayed, adjourned to 09.09.2024.

To be taken up immediately after the urgents.”

7. In compliance of the said order, status report by way of affidavit dated 07.09.2024 of the Estate Officer, HSVP, Faridabad has been



filed, in which it has been stated that no commercial activity is being carried out at the site. However, there is illegal construction at the rear set back. As per the neighbours, the commercial used was stopped around 18-20 years back. Photographs of the property have also been placed on record as Annexure R-1 and R-2;-

“3. That the present status report is being filed in compliance of the order dated 29.08.2024. in this regard, at the very outset, it is submitted that as per SDE(S), HSVP Faridabad report dated 06.09-2024, there is no commercial use running at site, however, there is illegal construction at the rear set back i.e there is zoning violation in the form of one side room is constructed and on other side teen shed structure exists at present. It is further submitted that the SDE(S), HSVP Faridabad also recorded the statements of neighbors namely Smt Aagya Ram Vohra S/o Amarnath Vohra H No. 51, sector-18A, Faridabad stated that the shop running in the plot in question was closed approximate 18-20 years before and Sh Kamal Kalra S/o Sh Sudharshan Kumar C/o Prop Kamal Electric Store Barh Mohalla old Faridabad who is running shop at front side pocket of plot in question also stated that the shop running in the plot in question was closed approximate 18-20 years before. Copy of photographs of the plot in question and statement of neighbors of allottee of plot in question are annexed as Annexure R-1 & R-2.

4. That it is further submitted that as per the official record, the SDE(S), HSVP Faridabad reported vide dated 06.05.2019 that there is no commercial use at site, however, as per the official record, there is no report which shows that when commercial use had been discontinued by the petitioner.”



8. Faced with the situation, learned counsel for the petitioners has filed an affidavit dated 10.09.2024 of Ashwani Kumar Singhal (LR of the petitioner-Raj Kumari) in which it has been undertaken that the illegal construction at the rear set back shall be removed within a period of two weeks and the property in question shall not be utilized for any commercial purpose and for any other purpose except residential and the terms and conditions of the allotment letter shall not be violated.

“3. That the Deponent undertakes to remove the above mentioned zoning violation / illegal construction at the rear set back of the Property of the Petitioner comprised in Plot / Site No. 49 (measuring 160 sq. yards.), situated Sector 18-A, Faridabad, as expeditiously as possible, within a period of two weeks hereinafter.

4. That the Deponent undertakes that the erection of one room and tin shed structure has been made on account of ignorance and lack of awareness, the Deponent holds the law and this Hon'ble Court in the highest regard and esteem and undertakes to remain bound by the Letter of the Law and the above referred transgression is neither intentional nor wilful.

5. That the Deponent undertakes that the above referred illegal structures/zoning plan violation shall be rectified, at the earliest, within a period of two weeks hereinafter and Deponent shall remain bound by the instant undertaking.

6. That the Deponent further undertakes not to utilise the property in question for any commercial purpose or any other purpose except residential purpose whatsoever in violation of the terms of allotment letter.”

9. Upon this, learned counsel for the respondent submits that once the illegal construction is removed, the resumption order and all subsequent



proceedings shall be withdrawn after intimation of removal of the illegal construction etc., is given by the petitioners to the respondents authorities. He submits that on receipt of the information, the resumption order and all subsequent proceedings shall be recalled within a period of two weeks.

10. Learned counsel are *ad idem* that the writ petition may accordingly disposed of in terms of the above statements given by them.

The writ petition is accordingly disposed of in terms of the statements given by learned counsel for the parties as have been noticed in the preceding paragraphs, binding them to the statements made in Court. In case of any violation of the statement made by learned counsel for the petitioners, the respondents shall be at liberty to restore the resumption order and the subsequent proceedings. In case of any violation of the statement given in Court by the respondents, the petitioners shall be at liberty to move an application for restoration of the instant petition.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

12.09.2024
Rekha

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