



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 19955 of 2024

Date of decision: 21.08.2024

Viney Kumar Sharma

.... Petitioner

Vs.

The Improvement Trust, Ludhiana and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Rakesh Gupta, Advocate, with
Ms. Manvi Arora, Advocate, for the petitioner.

ARUN PALLI, J (Oral)

The petitioner (Viney Kumar Sharma) has prayed for the following substantive relief:

“Civil Writ Petition under Article 226/227 of the Constitution of India for issuance of an appropriate writ in the nature of mandamus directing the respondent No.1 to refund a sum of Rs.1,55,47,450/- along with interest at the rate of 12% with effect from 21.06.2021 (Annexure P-2) till the date of actual realization of the said amount.

Further prayed for issuance of writ in the nature of mandamus directing the respondent No.1 to compensate the petitioner for the construction raised by the petitioner on the said plot after spent an amount of an amount of Rs.10,00,000/-.”

Learned counsel for the petitioner submits that the petitioner participated in the E-auction conducted by the respondent-trust for allotment of residential/commercial properties. And, upon being adjudged H-1, vide letter of allotment dated June 21, 2021 (P-2), he was allotted a residential plot no.22, Block-F, measuring 300 sq. yards, Maharishi Balmiki Nagar (256



Acre) Scheme, Ludhiana. Accordingly, he submits that the petitioner remitted the entire sale consideration. And, an agreement dated July 14, 2021 (P-3) was also entered into between the parties. On July 29, 2021 (P-5), the petitioner was delivered the actual physical possession of the site. Whereafter, he constructed the site and obtained the occupation certificate on December 29, 2021 (P-10). However, subsequently he learnt that a **Civil Suit No.6609 of 2020**, for injunction similicitor, filed by one **Sushma Lata** against the respondent-trust qua the subject site was pending before the Civil Judge (Junior Division), Ludhiana. And, vide interim order dated November 04, 2022 (P-15), the trial court had even restrained the respondent-trust from causing forcible dispossession of the plaintiff. Accordingly, an application under Order 1 Rule 10 of CPC was moved by the petitioner, to be arrayed as a party to the suit which, however, was dismissed on October 20, 2023 (P-19). Against which, Civil Revision No.7376 of 2023, preferred by the petitioner is pending before this Court and is posted for January 13, 2025. And, in the meanwhile, he submits that Sushma Lata (Plaintiff), alleging violation of the interim injunction granted by the trial court, has even initiated the contempt proceedings not only against the respondent-trust but also the petitioner. It is submitted that subsequently she had even moved an application seeking police help for restoration of possession which, however, was dismissed by the trial court on July 19, 2024. Accordingly, it is urged that the said suit is now posted for September 30, 2024 and, whereas the contempt proceedings are pending for September 10, 2024. Further, yet another suit has been filed by Sushma Lata (**C.S. NO. 3503 of 2023**) against the respondent-trust as also the petitioner, which is also pending for



September 10, 2024. And, upon an application moved by the petitioner, both the suits have since been clubbed and are being heard by the same Court.

It is submitted that petitioner is a bonafide purchaser, without notice, for a valuable consideration, and had no clue that the subject property, which was put to auction by the respondent-trust was a subject matter of dispute in a suit filed by Sushma Lata. It is urged that petitioner is a senior citizen, who has invested his life savings on acquiring and constructing the site. And, he is not a litigant by choice but a victim of apparent negligence and insensitivity of the respondent-trust. However, having argued the matter at some length, learned counsel for the petitioner, as always, fairly submits that as the rights of the plaintiff (Sushma Lata), respondent trust as also of the petitioner, are being determined in the pending suit(s), for the present, the petitioner would be satisfied if the trial court, is directed to expedite the proceedings and decide the said suit(s) at the earliest.

Served with the advance copy of the petition, Mr. Sandeep Khunger, Advocate with Mr. Saksham Khunger, Advocate is present in Court on behalf of the respondent-Trust. He submits that in the written statement filed on behalf of the respondent-trust to the suit filed by Sushma Lata, not only her right, title and interest in the subject site is disputed, but the stand set out by the trust is that the documents, upon which her claim is predicated, are forged/fabricated. He submits that the matter is being pursued by the respondent trust in the right earnest. Though, he concedes that owing to a serious lapse and lack of due diligence, at the end of the respondent-trust, despite the site being a subject matter of pending suit, was

put to auction. Be that as it may, he submits that every possible endeavour



shall be made by the respondent-trust to ensure that proceedings before trial court are not unduly delayed.

In the wake of the position sketched out above, and in terms of the statement made by learned counsel for the parties, this petition is accordingly disposed of with a request to the learned Presiding Officer, who, as indicated above, is in seisin of both the suits to try and conclude the trial, expeditiously, and decide the suit(s) preferably within six months from the receipt of certified copy of this order.

Needless to assert that this order shall not constitute an expression of opinion on the merits of the case of any of the parties to the suit(s), for, the trial court, would decide the matter strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

21.08.2024

deepak

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