



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-23024-2024

Date of decision: 13.09.2024

Sukhwinder Kaur and others

....Petitioners

Versus

Advisor to the Administrator, U.T., Chandigarh and others

....Respondents

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

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

Ms. Sukhmani Patwalia, Advocate, and
Mr. J.S. Chandail, Advocate,
for the respondents.

ARUN PALLI, J. (Oral)

The petitioners have prayed for the following substantive
relief:

***“Civil Writ Petition under Articles 226/227 of
the Constitution of India for issuance of a Writ in the
nature of Certiorari for quashing the order dated
17.07.2024 (Annexure P-7), passed by respondent No.1 i.e.
Advisor to the Administrator, U.T. Chandigarh whereby
the revision petition filed by the petitioners under Section
10(4) of the (Development and Regulation) Act, 1952
against the order dated 24.08.2004 (Annexure P-3) passed
by Chief Administrator, U.T., Chandigarh in respect of
industrial plot No. M.W 19, Industrial Area, Phase-1,
Chandigarh has been dismissed, the aforesaid order being
illegal, void and without jurisdiction and is, therefore,
liable to be set aside in the present petition and further for
extension of the time to deposit the amount in question in***



terms of the order dated 24.08.2004 (Annexure P-3) passed by the Chief Administrator, U.T. Chandigarh.”

Learned counsel for the petitioners submits that vide letter of allotment dated 17.11.1966 (P-1), Gurdial Singh, predecessor-in-interest of the petitioners, was allotted an industrial plot/site No.M.W.19, Industrial Area, Phase-1, Chandigarh, for a specific industry (manufacturing of steel gates, grills, railings etc.) However, on an inspection carried out by the officials of respondent-authorities, it was found that, in fact, the subject site was being used to sell shoes and electric rods, under the name and style of Jai Hanuman Industrial Corporation. Accordingly, the Land Acquisition Officer, exercising the powers of Estate Officer, U.T. Chandigarh, vide order dated 06.05.2003 (P-2), resumed the site on account of a misuser, along with forfeiture of 10% of the consideration, interest etc. Further, he submits, for the original allottee had passed away, the site in question was succeeded by his two sons, namely, Tarlochan Singh and Harvinder Singh, who preferred an appeal against the said order. As a result, after examining the matter, vide order dated 24.08.2004 (P-3), the Joint Secretary, exercising the powers of the Chief Administrator, set aside the order of resumption, and restored the site in favour of the transferee/appellants, subject, however, to a condition that they shall pay the forfeitures, as imposed by the Estate Officer, within one month. For, per the inspection report, the misuser at site had ceased to exist. It is submitted that the order (P-3), was not complied with, for Harvinder Singh died on 09.05.2021, and Tarlochan Singh passed away on 20.11.2022, and thus, the petitioners, who are their heirs, were oblivious of any such proceedings. Accordingly, he asserts that the order passed by the Appellate Authority, being conditional and faced with the consequences thereof, they preferred a revision under Section 10(4) of the Capital of Punjab (Development & Regulation) Act, 1952, before the Adviser to the Administrator, which has since been dismissed on account of delay and laches, vide order dated 17.07.2024 (P-7). He asserts that, in the interregnum, owing to the order of resumption, the authorities even initiated the proceedings under



the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, for vide order dated 14.03.2023, passed by the Sub Divisional Magistrate (East), ejection of the petitioners has since been ordered. However, the petitioners have assailed the said order in an appeal, preferred under Section 9 of the Act of 1971, and the Appellate Authority has stayed the order of ejection, vide order dated 29.05.2023 (P-10). And, the matter is now posted for 21.09.2024.

It is submitted that concededly, petitioners happen to be the owners of the subject site and it was only on account of the misuser, the order of resumption was passed. And as regards the delay in filing the revision, he submits that as Tarlochan Singh and Harvinder Singh, post decision of the appeal, had passed away, the petitioners had no knowledge about the conditional order passed by the Appellate Authority (*ibid*), as also the consequences of non-compliance thereof. Be that as it may, he submits, for the misuser, as noticed even by the Appellate Authority in its order (*ibid*), has ceased to exist, the petitioners are willing to remit all the dues outstanding against them, including penalty etc. In this regard, while relying upon a decision of the Supreme Court in *Teri Oat Estates (P) Ltd. Vs. U.T. Chandigarh and others, (2004) 2 SCC 130*, he contends that resumption or cancellation should only be the last resort. Likewise, in reference to the decision of the Full Bench of this Court in *Dheera Singh Vs. U.T., Chandigarh Administration, 2012 (4) RCR (Civil) 970*, he asserts that resumption is to be ordered only in extreme cases. Therefore, it is urged that in the given circumstances, the impugned orders are unsustainable.

Served with the advance copy of the petition, Ms. Sukhmani Patwalia, Advocate, for the respondents, had caused appearance on 11.09.2024, and sought time to ascertain, as to whether, the misuser, which formed basis of the resumption, still exists or not? As also to furnish the necessary affidavit, if any. Accordingly, she has shared with us a copy of the inspection report, (retained on record as Mark X), which indicates that no misuser was found at site:-

It is submitted that a telephonic message has been received from Assistant (M), Estate Office, U.T.,



Chandigarh wherein he requested to get the site inspected as the court case is pending in Hon'ble High Court. Accordingly, I have inspected the site in question on 11.09.2024 and found that Ground Floor, Part 1 was being used for manufacturing of Iron Fabrication run by Sh. Gursimran S/o Late Sh. Trilochan Singh. Part 2 was also being used for manufacturing prupose by 1. M/s R.B Sports, 2. M/s Viswa Engineering Work, 3. M/s Geeta Fastners and 4. Swastic Engineering Work and the area of the factory is 43X89=3827 Sq. Ft. Photographs are enclosed herewith for ready reference.

In view of above, No Misuse was found there at the time of inspection.”

Further, the total outstanding dues that the petitioners are required to deposit are Rs.19,38,650/-. Accordingly, she, as always, fairly submits that in the event, the said amount is deposited by the petitioners within a week from today, the competent authority shall sympathetically consider their claim for restoration of the site.

In response, learned counsel for the petitioners submits that petitioners would submit a specific affidavit with the authorities that the subject site would be used only for the purpose it was allotted and the entire outstanding dues, as indicated above, shall also be deposited within a week from today, failing which, the petition be deemed to have been dismissed.

To this, learned counsel for the respondents submits that in case, the said affidavit is filed, along with the demand draft, within the stipulated period, as indicated above, the competent authority shall take cognizance thereof forthwith, and pass necessary orders, in accordance with law, at the earliest.

In the wake of the position sketched out above, and in terms of the statements made by learned counsel for the parties, the petition is accordingly disposed of.

This Court is sanguine that the authorities shall look into the matter in the right earnest. And the appropriate orders shall be passed at the earliest, as undertaken by learned counsel for the respondents.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

13.09.2024
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No