

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1)	RSA No.5880 of 2016 (O&M) Date of Order:30.01.2024
Satbir Singh and another	.Appellants
Versus	
Patiala Improvement Trust and another	..Respondents
(2)	RSA No.5975 of 2016 (O&M)
Jagjit Singh	.Appellant
Versus	
Patiala Improvement Trust and another	..Respondents
(3)	RSA No.5882 of 2016 (O&M)
Jagjit Singh Dardi and another	.Appellants
Versus	
Patiala Improvement Trust and another	..Respondents
(4)	RSA No.5883 of 2016 (O&M)
Harpreet Singh	.Appellant
Versus	
Patiala Improvement Trust and another	..Respondents
(5)	RSA No.5884 of 2016 (O&M)
Jaswinder Kaur	.Appellant
Versus	
Patiala Improvement Trust and another	..Respondents
(6)	RSA No.5885 of 2016 (O&M)
Jagjit Singh Dardi	.Appellant
Versus	
Patiala Improvement Trust and another	..Respondents
(7)	RSA No.5990 of 2016 (O&M)
Jagjit Singh Dardi	.Appellant
Versus	

RSA No.5880 of 2016 (O&M)

-2-

2024:PHHC:012460

Patiala Improvement Trust and another

..Respondents

(8)

RSA No.5991 of 2016 (O&M)

Satbir Singh and another

..Appellants

Versus

Patiala Improvement Trust and another

..Respondents

(9)

RSA No.5886 of 2016 (O&M)

Jagjit Singh Dardi

..Appellant

Versus

Patiala Improvement Trust and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Aggarwal, Sr. Advocate, with
Mr. Vishal Pundir, Advocate
Ms. Aashna Aggarwal, Advocate
for the appellant(s).

Mr. Neeraj Sharma, Advocate
for the respondent-Trust.

ANIL KSHETARPAL, J

1. The batch of 9 connected appeals involving an identical issue, with the consent of the learned counsel representing the parties, is being disposed of by a common order.
2. In all these 9 appeals, the appellant(s) are allottees/transferees of plots by the Patiala Improvement Trust. They constructed their respective residential houses and started residing therein. Their plots were resumed on account of violation committed by them in construction of the buildings on the plots allotted or transferred to them. At one stage, the appellants were granted 15 days time to remove the non-compoundable violations and compound the compounded violations. This development took place during the pendency of the suit. In fact, under the Punjab Town Improvement Act, 1922. The Patiala Improvement Trust does not have the power to resume

the plot on the ground of violation in the construction of the building. However, in a public interest litigation, the High Court directed the Improvement Trust to resume the plots for violation of building by-laws. In PIL also, the proceedings with respect to the appellants were closed.

3. During the pendency of the proceedings in the court, the non compoundable violations have been removed and the compoundable violations have already been compounded. The recent survey/inspection report prepared by the office of Improvement Trust, Patiala, on 15.01.2024, reads as under:-

“On the aforesaid subject, the above RSAs/cases are pending with regard to the plots and School sites under the Development Scheme, ST Nagar. Regarding this, a detailed report was prepared in the year 2009. In the said report, details of construction over the plots were mentioned the constructions were compoundable, but on the school sites, some irregularities were found. Regarding this, now the spot was inspected by the Field Staff. At the spot of the school site, no class room has been constructed on the rear portion and the rear portion is vacant at the spot. Apart from this in the report of 2009, there was a mention of a canteen in the ground of the school. The said canteen has also been removed. Keeping in view of the aforesaid whatever non-compoundable violations which were there in the year 2009 are no longer present at the spot.”

4. The aforesaid report is sought to be placed on record by way of additional evidence.

5. Keeping in view the aforesaid developments, the learned counsel representing the Improvement Trust, Patiala, submits that the appellants can be directed to submit applications for recall of the respective

resumption orders against the appellants, which shall be considered sympathetically.

6. In the considered opinion of the court, there is no reason to relegate the appellants to the remedy before the Improvement Trust particularly when admittedly the building violations have already been removed. It is not the allegation of the Improvement Trust that the appellants in all the 9 appeals have committed any other infringement.

7. In a Full Bench judgment of this Court in **Dheera Singh vs. Union Territory, Chandigarh Adminsitration and others, 2014 (2) RCR(Civil) 970**, while examining the constitutional validity of Section 8-A of the Capital of Punjab (Development and Regulation) Act, 1952, held as under:-

“(86) We do not foresee even an iota of discretion with the appellate or revisional authorities except to set aside and annul the resumption proceedings wherever the cause of inception has eclipsed except however in a case of repeated violations where the allottee had already been forewarned by the appellate or revisional authority on previous occasion(s). Similarly, dropping of the resumption proceedings by the appellate or revisional Authorities would not forestall such authorities from imposing exemplary alternative penalty like fine etc. on the allottee-in-default in accordance with law. Any other construction of Section 10(2)&(4) would circumvent the true amplitude of the phrases “vary”, “reverse”, “alter” or “rescind” as they are to be construed keeping in view the legislative policy of the 1952 Act, namely, the Union Territory of Chandigarh as a ‘planned regulated City’. The power of judicial review under Articles 226 or 32 of the Constitution completely wipes out the outmost fear of

discriminatory or arbitrary exercise of powers by the Estate Officer, appellate or revisional authorities.”

8. Moreover, the Division Bench in **Rakesh Kumar vs. Financial Commissioner/Revenue, Punjab, 2009 (1) RCR(Civil) 674**, set aside the resumption order on the ground that power of resumption is only remedial and it should not be resorted to at the first instance. Such drastic step of resumption should be taken as a last resort. The Division Bench relied upon the judgment of the Supreme Court in **M/s. Teri Oat Estates Pvt. Ltd. vs. UT Chandigarh & Ors., (2004) 2 SCC 130**. The Division Bench quashed the resumption of the plot on undertaking given by the petitioner to demolish illegal construction and raise construction of the buildings strictly in accordance with building plans. Whereas, in this case, the building violation stands already removed.
9. Keeping in view the aforesaid facts, these 9 appeals are allowed. The judgments passed by the courts below are set aside. The resumption orders passed by the Improvement Trust resuming the properties of the appellants shall stand set aside.
10. All the pending miscellaneous applications, if any, are also disposed of.

January 30, 2024
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO