

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

115

CR-9088-2017 (O&M)  
Date of decision: 21.01.2025

GREATER MOHALI AREA DEVELOPMENT AUTHORITY  
THROUGH ITS CHIEF ADMINISTRATOR AND ANR

..Petitioners

Versus

SATWANT KAUR

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aman Sharma, Advocate for the petitioners.

Mr. S.S. Swaich, Advocate, Ms. Deepika, Advocate  
Ms. Ishani Goyal, Advocate, Ms. Navjot Kaur, Advocate  
Ms. Deepa Negi, Advocate, Mr. S.S. Sandhu, Advocate  
Mr. Deepak K. Bishnoi, Advocate for respondent.

**ANIL KSHETARPAL, J(Oral)**

1. The petitioners herein are instrumentalities of State of Punjab. They assail the correctness of Executing Court's order passed on 26.07.2017. The Executing Court has held that judgment debtor has no power to dismiss the claim of decree holder and further has not considered the case of the decree holder in a fair and proper manner.

2. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.

3. The respondent herein claims to be transferee of '*Teh Bazari Rights*' from Sh. Jaspal Singh Saini, who was earlier running a cart after taking permission from the Greater Mohali Area Development Authority. She filed a suit for declaration that she is entitled to allotment of '*khokha*' site in new market to be built in Phase 3B-I, Janta Market, S.A.S. Nagar,

Mohali, Punjab, being purchaser of '*Teh Bazari Rights*'. The suit was



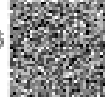
dismissed by the trial Court, however, the First Appellate Court modified the decree in the following manner:-

*“17. In view of the above observations, this appeal is accepted with costs; impugned judgment and decree dated 25.07.2013 are set aside; suit of the plaintiff is decreed with costs throughout to the effect that the appellant/plaintiff is entitled for consideration of her claim regarding allotment of Khokha site in New Market to be built in Phase 3-B-1, Janta Market, S.A.S. Nagar in lieu of Khokha No.360 in the said market which she was occupying since 14.04.2006 being transferee under original occupier Jaspal Singh Saini on Teh Bazari basis, which was gutted in fire on 31.05.2007 and for mandatory injunction directing the defendants to consider the claim of the plaintiff accordingly within a period of three months from the date of this judgment and decide her claim through a speaking order. Decree sheet be prepared accordingly. Lower court record be sent back. Appeal file be consigned to the Record Room.”*

4. Greater Mohali Area Development Authority vide a detailed order passed on 30.09.2016 rejected the respondent's claim. Thereafter, respondent filed execution petition, which as already noticed has resulted in passing of the impugned order.

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

6. On the one hand, learned counsel for the petitioner submits that the Appellate Court had only directed the Greater Mohali Area Development Authority to consider respondent's claim, which was duly considered and rejected. Hence, respondent can only take appropriate step to a separate proceedings, however, she cannot file execution petition, per contra, learned counsel for the respondent on the other hand submits that the Appellate Court has held that the petitioner is entitled to right of consideration as transferee of 'Teh Bazari Rights', hence, the order passed by the Greater Mohali Area Development Authority is illegal.



7. At this stage, it will not be appropriate to go into correctness or legality of order passed by Greater Mohali Area Development Authority. The Executing Court is required to implement the decree as it exists. The Appellate Court had only directed the Greater Mohali Area Development Authority to consider respondent's claim for allotment, which has been considered and rejected. Hence, in the opinion of this Court, the respondent will have to seek remedy against the order rejecting her claim. It was not appropriate for the Executing Court to opine about the legality and sustainability of the aforesaid order.

8. With these observations, the revision petition is allowed and the impugned order dated 26.07.2017, is set aside.

9. The Executing Court is also directed to dispose of the execution petition.

10. All the pending miscellaneous applications, if any, are also disposed of.

**January 21<sup>st</sup>, 2025**

*Ay*

**(ANIL KSHETARPAL)  
JUDGE**

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