

128 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5673-2025 (O/M)
Date of decision : 07.07.2025

Lajpal Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Sarvesh Malik, Mr. Chirag Suri, Advocates,
for the petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

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HARSH BUNGER, J. (ORAL)

CM-3740-CWP-2025

This is an application filed under Section 151 CPC for placing on record certain documents as Annexure P-17 to Annexure P-20.

For the reasons mentioned in application, same is allowed and documents (Annexure P-17 to Annexure P-20) are taken on record subject to all just exceptions.

Application is accordingly disposed of.

CWP-5673-2025 (O/M)

1. Petitioner (Lajpal Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of mandamus for directing respondent No. 3 (Municipal Corporation, Patiala) to proceed with the execution of sale deed of Shop No. 103 (360 square yards), situated at Nabha Gate, Patiala, in favour of petitioner, in terms of agreement dated 27.12.2001 (Annexure P-3) and receipt dated 28.12.2001 (Annexure P-4).

2. Briefly, the petitioner claims to be a tenant of Shop No. 103, located at Nabha Gate, Patiala under respondent No. 3-Municipal Corporation, Patiala (in short 'Corporation').

2.1 Petitioner states that a policy dated 20.07.2000 (Annexure P-1) was framed as regards disposal of municipal shops to existing occupants like the petitioner. The petitioner claims that in terms of the aforesaid policy (Annexure P-1), a Committee was constituted under the Chairmanship of Deputy Commissioner and comprising other officials, who in its meeting dated 25.10.2000 (Annexure P-2), concluded the market value of the property wherein the petitioner's shop was located and same was determined at Rs. 12,000/- per square yard. It is stated that in terms of policy (Annexure P-1) and also meeting dated 25.10.2000, an agreement dated 27.12.2001 (Annexure P-3) was executed between respondent No. 3-Corporation and petitioner for sale of Shop No. 103, according to which the petitioner was to pay 25 per cent of cost of upto 31.12.2001 and balance 75 per cent was to be paid by way of half yearly installments alongwith interest within a period of five years. Petitioner states that he has already deposited an amount of Rs. 5,40,000/, vide receipt dated 28.12.2001 (Annexure P-4).

2.2 It transpires that a civil writ petition (CWP-4511-2001) titled as '*Hari Mitter and others Versus State of Punjab and others*' was filed before this Court, seeking quashing of policy dated 20.07.2000 (Annexure P-1). The said civil writ petition came to be allowed by this Court, vide order dated 13.02.2002 (Annexure P-5), whereby the policy decision dated 20.07.2000 (Annexure P-1) was declared ultra vires.

2.3 It transpires that after the aforesaid decision dated 13.02.2002 (Annexure P-5), petitioner alongwith others had communications with respondent No. 3-Corporation and in interregnum, the petitioner alongwith others are also stated to have filed civil writ petition (CWP-20240-2008), which came to be disposed of, vide order dated 01.12.2008 by directing the authorities to decide the legal notice, submitted by the petitioners therein.

2.4 Thereafter, another civil writ petition (CWP-20248-2015) is also stated to have been filed by the petitioner alongwith others, which was also disposed of, vide order dated 23.11.2016 (Annexure P-11), whereby the State Government was directed to take final decision in the matter.

2.5 It appears that since no action was taken, the petitioner alongwith others again approached this Court by way of filing a civil writ petition (CWP-15782-2017), wherein the status report dated 06.03.2024 was filed and on that basis, the aforesaid writ petition (CWP-15782-2017) was withdrawn, vide order dated 10.04.2024 (Annexure P-15), the relevant extracts of which read as under :-

“ Learned counsel for the petitioners has submitted that in view of the status report filed by the respondent-Corporation, grievances of petitioners No. 1 to 4, 7, 9 to 23, 27 to 29, 31 to 33, have been redressed and thus, the present petition has been rendered infructuous qua these petitioners. He further submits that so far as the remaining petitioners are concerned, he wants to withdraw the present petition with liberty to avail any other remedy as available to them under the law.

Allowed to do so.

Petition qua petitioners No.1 to 4, 7, 9 to 23, 27 to 29, 31 to 33 stands dismissed as infructuous, whereas, qua remaining petitioners, it is dismissed as withdrawn with liberty to these petitioners to avail any other remedy as available to them under law.

Disposed of in above terms.”

2.6 It appears that petitioner was impleaded as petitioner No. 30 in the aforesaid civil writ petition (CWP-15782-2017). In terms of the aforesaid order dated 10.04.2024 (Annexure P-15), the petitioner is stated to have submitted a representation dated 01.10.2024 (Annexure P-16) to the Commissioner, Municipal Corporation, Patiala, wherein in paras 14 and 15, the following averments have been made :-

“14. That as submitted at the time of filing of the above said writ petition as well as various representations, the undersigned has always been ready and willing to deposit the remaining amount in terms of the agreement dated 27.12.2001 entered into between the undersigned and the Municipal Corporation, Patiala, which was in the nature of a binding contract entered into between the parties. Furthermore, once, the parties had acted upon the said agreement and in part performance thereof, an amount of 25% of the amount due had been paid and received, in such an eventuality, the parties could not resile from the said agreement and the same was required to be given complete effect to.

At the same time, it is pertinent to mention here that the failure on the part of Municipal Corporation, Patiala to execute the sale deed in terms of agreement dated 27.12.2001 in its essence is discriminatory to the effect that the allottees who had paid the entire amount had been executed sale deeds and consequent site plan had also been

approved, however, the allottees who had opted for payment in instalments have been denied the said benefits.

15. That thus, by virtue of present representation, it is most respectfully prayed that the remaining amount due in terms of the agreement dated 27.12.2001 may kindly be accepted and sale deed may kindly be executed in favour of the undersigned, in the interest of justice.”

2.7 A perusal of the above extracted paras 14 and 15 of representation dated 01.10.2024 (Annexure P-16), submitted by the petitioner to Commissioner, Municipal Corporation, Patiala, would indicate that the petitioner is seeking enforcement of agreement dated 27.12.2001 (Annexure P-3).

3. Heard.

4. During the course of hearing of this civil writ petition, it is not disputed by learned counsel for petitioner that the aforesaid agreement dated 27.12.2001 (Annexure P-3) was executed in terms of policy dated 20.07.2000 (Annexure P-1), which was challenged in the civil writ petition (CWP-4511-2001), which came to be decided by a Division Bench of this Court, vide order dated 13.03.2002 (Annexure P-5), by holding as under :-

“ A careful reading of the provisions quoted above shows that Municipal Councils, Nagar Panchayats and Municipal Corporation Councils, Nagar Panchayats and Municipal Corporations constituted under the two enactments have the exclusive power to deal with the properties vested in them. In the case of Municipal Councils and Nagar Panchayats, the properties vested in them under Section 56 or 57 of the 1911 Act can be transferred to the State Government under Section 59. Section 236 (1) of the 1911 Act requires that the State Government and Deputy

Commissioners, acting under its orders should ensure that the proceedings of the Committees are in conformity with law. Under sub-section (2) of Section 236, the State Government can exercise all powers necessary for the performance of its duties under sub-section (1). It can also pass an order to annul or modify any proceedings which may be considered to be violative of the provisions of law. The Municipal Corporations constituted under Section 4 of the 1976 Act enjoy exclusive power in the matter of disposal of properties belonging to them. Section 405 of the 1976 Act empowers the State Government to give directions to the Municipal Corporations for performance of their functions in accordance with law. However, there is no provision in either of the statutes under which the State Govt. can direct the municipal bodies to dispose of their properties to the occupiers at the rate for less than the market rate. During the course of arguments, the learned Deputy Advocate General had to concede that the two enactments to issue direction to the municipalities to dispose of their properties to the existing occupiers and that too without charging market price. She also submitted that every municipality has the power, jurisdiction and authority to take appropriate decision in the matter of disposal of property vested in it and the Government cannot interfere in the exercise of its discretion when it is shown that the decision taken by the particular municipality is contrary to law or is vitiated due to malafides.

In view of the above, we hold that the instructions issued by the State Government vide memo dated 20.07.2000 (Annexure P-1) are ultra vires to the provisions of the 1911 Act and the 1976 Act.

We are further of the view that in exercise of power of supervisions vested in it, the State Government cannot issue mandatory direction to the municipalities to dispose of their

properties dehors the requirement of the revenue and that too without following the procedure of auction. Still further, we are of the view that the policy decision taken by the State Govt. to dispose of the municipal shops and properties at a price less than the market rate is motivated and has been taken with the sole objection of helping a particular segment of the society, namely, those who have been occupying municipal shops and other properties for years together by paying insignificant rent. While doing so, the State Govt. not only transgressed the limits of its authority and tinkered with the autonomy of the municipal bodies, but also ignored the interest of the revenue of the municipalities.

In the premise aforesaid, the writ petition is allowed. Annexure P-1 and all proceedings emanating therefrom are declared illegal. It is also declared that the Council and all other municipal bodies in the State shall be free to take appropriate decision in the matter of disposal of municipal properties keeping in view the relevant provisions of law. The respondents shall pay costs of Rs. 10,000/- to the petitioners. This amount shall be recovered by the State Government from the persons responsible for taking a patently illegal decision.”

5. In my considered view, once the policy decision dated 20.07.2000 (Annexure P-1) has already been quashed by this Court by specifically observing that the decision taken by the State Government to dispose of municipal shops and properties at price less than the market value is motivated and has been taken with the sole objective of helping a particular segment of the society, namely, those who have been occupying municipal shops and other properties for years together by paying insignificant rent, therefore, the State Govt. has not only transgressed the limits of its authority, but also ignored the interest of the revenue of the

municipalities, accordingly, policy decision dated 20.07.2000 (Annexure P-1) and all proceedings emanating therefrom were declared illegal.

6. Since the relief sought by the petitioner is for enforcement of agreement dated 27.12.2001 (Annexure P-3), which concededly was executed in furtherance of the policy decision dated 20.07.2000 (Annexure P-1) and said policy alongwith all proceedings emanating therefrom had been declared to be illegal, no relief can be granted to the petitioner in the instant civil writ petition.

7. In view of the above, I find no merit in this civil writ petition and same is accordingly dismissed.

8. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

07.07.2025
sjks

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