

2025:PHHC:067576-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Reserved On: 08.05.2025

Date of decision: 15.05.2025

1. CWP-20929-2020

ATUL ARORA & ANR

.....Petitioners

Versus

STATE OF PUNJAB & ORS.

.....Respondents

2. CWP-8596-2020

SUMIT SETH & ANR

.....Petitioners

Versus

STATE OF PUNJAB & ORS.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE ALOK JAIN**

Present:- Mr. Ashish Chopra, Senior Advocate with
Mr. Mehtab Singh Bhatti, Advocate
for the petitioner in CWP-20929-2020.

Mr. D.S. Gandhi, Advocate
for petitioner in CWP-8596-2020.

Mr. Kuljit Singh, Addl. A.G., Punjab.

Mr. Kushagra Mahajan, Advocate for respondent No.3.

Dr. Anmol Rattan Sidhu, Senior Advocate with
Ms. Kritima Sareen, Advocate
for respondent No.4 in CWP-20929-2020 &
CWP-8596-2020.

SUDHIR SINGH, J.

This order shall dispose of the above noted two writ petitions, involving common questions of law and facts. However, for facility of reference, the facts are taken from CWP-20929-2020.

2. The petitioners have sought issuance of a writ in the nature of Certiorari quashing resolution No.25 dated 31.01.2020 passed by respondent No.3-Amritsar Improvement Trust (for short 'the Trust'), whereby the road/parking area is alleged to have been converted into a Shop-cum-Office (SCO) blocking the passage. A further writ of Mandamus has been sought directing the official respondents not to change the layout plan and not to convert the road/parking of the market into SCO No.37.

3. In the year 2014, the respondent-Trust floated a scheme, namely, "97 Acre Development Scheme", whereunder Shop-cum-Offices (SCOs) and booths were carved out to be sold in an open auction. The auction was held on 21.1.2014 and respondent No.4-Sh. Ramesh Chopra was allotted SCO No.61 measuring 363 sq. yards in the said auction. It is the case of the petitioners that they had also participated in the aforementioned auction and being allotted SCO No.38 vide allotment letter dated 26.03.2015, regarding which the sale deed was executed by the Trust in their favour on 08.03.2018. It is further asserted that the Air Force Authority had raised objection in respect of the aforesaid scheme to the effect that no construction should be raised within 100 meters of the Air Force Complex. This led to the respondent-Trust to re-plan the scheme and the Trust had

accordingly, issued letters to the bidders, who were successful in the auction asking them to seek re-fund of their money. Respondent No.4- Sh. Ramesh Chopra, the successful bidder of SCO No.61 was also issued such letter. The respondent-Trust issued a fresh layout plan of the aforesaid scheme on 23.06.2016. It is asserted that in the amended layout plan, a fresh auction was scheduled for 14.12.2018. The petitioners participated in the said process and had given bid for SCO No.39 and they remained successful and accordingly, allotted SCO No.39. After getting the requisite approval from the authorities, the petitioners started construction over SCO Nos.38 and 39. It is further the case of the petitioners that they came to know that even though in the amended layout plan, SCO No.37 was shown as the last SCO in the row, but actually at the site, no space was left for the said SCO, which was why, the respondent-Trust being aware of the said fact, did not put the said SCO to auction. Respondent No.4 file CWP-8891-2019, before this Court seeking re-fund of the amount deposited by him against the allotment SCO No.61, due to the amended layout plan or in the alternative for allotment of a corner SCO in the same market. On 31.01.2020, the respondent-Trust passed resolution No.25 resolving to allot SCO No.37 to respondent No.4. Being aggrieved, the petitioners filed CWP-8349-2020 before this Court, but vide order dated 19.06.2020, the said writ petition was dismissed with liberty to them to seek their impleadment in the petition filed by respondent No.4 and make whatever submission they wanted to make. It is further asserted that before the petitioners could seek their impleadment in the aforesaid petition, respondent No.4 vide order

dated 20.08.2020, withdrew the aforesaid writ petition. It is, thus, asserted by the petitioners that action of the respondent-Trust in passing resolution No.25 dated 31.01.2020 is totally illegal and the respondent-Trust has got no right to change the site plan and convert the road/parking area into an SCO.

4. In the written statement filed on behalf of respondents No.1 and 2, it is pointed out that an alternative site in the form of SCO No.37 was allotted to respondent No.4 as after the objections raised by the Air Force Authority, the earlier SCO No.61 allotted to respondent No.4 was declared as no construction zone. It is further pointed out that the petitioners were also allotted an alternative SCO i.e., SCO No.39 as per the changed layout plan. It is further pointed out that the requisite approval granted by respondents No.1 and 2 to the respondent-Trust in respect of passing of resolution No.25, was not challenged by the petitioners, despite having due knowledge of the same.

5. In its written statement, the respondent-Trust has pointed out that as the petitioners had earlier filed CWP-8349-2020, on the same cause of action, which was dismissed on 19.06.2020, the present petition is not maintainable. The factum of writing letters to the allottees pursuant to the revision in the layout plan, for refund of the money, is admitted but, it is pointed out that respondent No.4 had written to the authorities to allot him an alternative SCO i.e., No.37 in place of the earlier SCO No.61 allotted to him. It is further averred that the layout plan had to be changed due to the objections raised by

the Air Force Authorities, whereby SCO No.61 earlier allotted to respondent No.4 was declared as no construction zone. It is further pointed out that resolution No.25 was passed in accordance with law and there was no *mala fide* on the part of the respondent-Trust.

6. In the written statement filed on behalf of respondent No.4, it is pointed out that the petitioners have no *locus* to file the writ petition and the main grudge of the petitioners is that petitioner No.1 being the allottee of SCO No.38 wants the said SCO to be treated as the corner SCO. It is also pointed out that apart from the writ petition being barred by the provisions of Order 2 Rule 2 CPC, it also involves disputed questions of fact.

7. Learned counsel appearing for the petitioners has vehemently argued that in the revised layout plan, there was no existence of SCO No.37 and SCO No.38 (allotted to petitioner No.1), was the corner SCO and the adjacent area was meant for the egress and ingress. It is further argued that the area meant for the road/public parking cannot be allowed to be converted into SCO No.37 so as to accommodate respondent No.4. In support of their arguments, the learned counsel for the petitioners referred to the information received under the Right to Information Act, 2005, indicating that there was no space for SCO No.37 left in the revised site plan. It is further argued that when the very prayer of respondent No.4 in the writ petition filed by him before this Court was for re-fund of the money deposited by him, the impugned action on the part of respondent No.3 in passing resolution No.25, is totally illegal and defeats the rights of the

petitioners.

8. On the other hand, learned counsel appearing for the respondents have vehemently argued that the respondent-Trust before passing resolution No.25 for allotment of the SCO to respondent No.4 had obtained the requisite permission from respondents No.1 and 2. It is further argued that the petitioners chose not to challenge the said permission and rather, filed the present writ petition challenging resolution No.25 and, thus, the writ petition is not maintainable. It is further argued that as respondent No.4 was originally allotted SCO No.61, which was declared no construction zone due to the objections raised by the Air Force Authority, allotment of SCO No.37 to respondent No.4, cannot be said to be illegal or unjustified.

9. We have heard learned counsel for the parties and have also gone through the paper book.

10. The question that arises for consideration in the present writ petition is as follows:

“Whether the impugned action of the respondent-Trust in allotting SCO No.37 to respondent No.4 suffers from any illegality?”

11. The facts as regards the floating of the scheme by the respondent-Trust; holding the auction; allotment of the SCOs in the unrevised layout plan to the petitioners and respondent No.4; objections raised by the Air Force Authority and further declaring of SCO No.61 as no construction zone, which led to the revision of the

layout plan, are not in dispute. It is also not in dispute that in the revised layout plan, the petitioners have been allotted SCO No.39 and pursuant to the resolution No.25, respondent No.4 has been allotted SCO No.37. The only emphasis of the petitioners is on the fact that in the revised layout plan, SCO No.37 had never existed and rather, the area was left vacant for the public egress and ingress. In sum and substance, the grievance of the petitioners seems to be that as in the revised layout plan, SCO No.38 was the corner SCO, allotment of SCO No.37, which never existed in the said plan, is not justified.

12. It may be noticed that respondent No.4 has had a right for allotment of an alternative SCO in place of SCO No.61. Merely because in the revised layout plan SCO No.37 was not in existence, cannot be a ground to defeat the lawful right of respondent No.4, especially when the land in question vested in the respondent-Trust, and the space/area was available to carve out such SCO. We find that the petitioners cannot be allowed to defeat the lawful right of respondent No.4 for allotment of SCO No.37 on the alleged ground that it will cause inconvenience to the general public by taking away their right to egress and ingress. It is not the case of the petitioners that there was no space left adjoining or adjacent to SCO No.38. Rather, it is their emphatic case that the space was available there and once, that was the position, the respondent-Trust could very well allot SCO No.37 to respondent No.4.

13. We may also observe that the petitioners being the allottee of SCO No. 38 want to enjoy the vacant area by making the

respondent-Trust to treat their SCO as corner SCO, but the lawful right of respondent No.4 cannot be allowed to be defeated at the whims and fancies of the petitioners. Likewise, the argument of the learned counsel for the petitioners that in the writ petition filed by respondent No.4, he had only sought re-fund of the money deposited by him and therefore, allotment of SCO No.37 to him is not legally tenable, is also bereft of any merit. Firstly, it may be observed that if during the pendency of the said writ petition, respondent-Trust had decided to allot an alternative SCO to respondent No.4, the same was within its right and once, the respondent No.4 did not raise any objection to the said allotment and rather, had accepted the same, the petitioners have got no cause of action to intrude into. Still further, the earlier SCO No.61 allotted to respondent No.4 was also a corner site. Therefore, allotting him SCO No.37 (corner) cannot be said to be legally unjustified.

14. No other point has been urged.

15. In view of the above, while answering the question framed above in negative, we dismiss the present writ petition being devoid of any merit.

16. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[ALOK JAIN]
JUDGE

15.05.2025

himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No