

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-6169-2017

Reserved on: 13.01.2025

Date of decision: 24.01.2025

R.K. SHARMA (DECEASED) THROUGH LRS.

..Appellant

Versus

HARYANA STATE INDUSTRIAL DEVELOPMENT CORPORATION
LTD. & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Aggarwal, Sr. Advocate
with Mr. Saket Bhandari, Advocate
for the appellant.

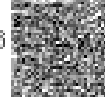
Mr. B.R. Mahajan, Sr. Advocate
with Mr. Ankur Mittal, Advocate
Ms. Kushaldeep Kaur, Advocate
Mr. Siddharth Arora, Advocate
Ms. Saanvi Singla, Advocate
for respondent No.1 and 2.

ANIL KSHETARPAL, J(Oral)**1. Factual background:-**

1.1 The correctness of concurrent findings of fact arrived at by the Courts below while dismissing the plaintiff's (appellant's) suit, is assailed in this regular second appeal. This is plaintiff's sixth round of litigation in order to continue in possession of the property owned by instrumentality of the State.

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

1.3 Sh. R.K. Sharma, the plaintiff was allotted plot No.227, Phase-IV, Udyog Vihar, Gurugram, for establishing industrial project to

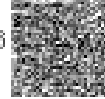


manufacture auto parts subject to the fulfillment of certain conditions. An agreement on 03.05.1988 was executed between Haryana State Industrial Development Corporation (in short 'HSIDC') and the plaintiff, specifying the terms and conditions of the allotment, which was followed by delivery of possession on 11.05.988. As per terms and conditions of the allotment, the plaintiff failed to start construction within six months and complete the same within 1 and ½ (half) year and start manufacturing within three years of allotment, hence, his plot was resumed. The property vested in the HSIDC, the respondent herein. The petitioner challenged the correctness of order of resumption passed by HSIDC on 12.04.1991. In Civil Writ Petition No.9444-1991, which was disposed of on 12.12.1991, with the following observations:-

“if the allottee pays extension fees and restoration fees within 3 months from today i.e., 12.04.1991, the plot would be restored to him and he would be at liberty to complete the construction within 1 year from the date of restoration of the plot. If no construction is made by him within the said period, the Corporation thereafter would be at liberty to take appropriate action in accordance with law.”

1.4 However, the plaintiff failed to comply with the aforesaid order and filed miscellaneous application for modification of the order, which was disposed of on 30.07.1992 with the following order:-

“We make it clear that this Court earlier order dated December 12.1991 does not put any embargo on the rights of the respondents to charge any amount found due from the petitioner in accordance with law. The only contention raised by the learned counsel for the petitioner in this application is that the respondents are not entitled to charge enhanced amount as demanded and the respondents have not adjusted the amount. paid by him. All this happened subsequent to the passing of the said order. If the petitioner has got any grievance against the demand of enhanced amount, he is at liberty to proceed in accordance with law. There is no ambiguity in

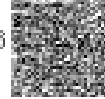


the impugned order, rather it has not been complied with. At this stage, the learned counsel for the respondents states that in the eventuality of the petitioner paying extension and restoration charges, though by later policy the extension charges were changed to a bank guarantee, the plot in question will be restored to him subject to the right of the respondents to proceed in accordance with law if any amount is found due from the petitioner or to pass any appropriate as a consequent of non-payment of any such amount.

With these observations, the Civil Miscellaneous Application is disposed of.”

1.5 During the pendency of writ petition, the plaintiff agreed to sell his rights in plot No.227, in favour of defendant No.3 vide agreement to sell dated 14.06.1993, on receipt of earnest money in cash as well as through cheques and delivered possession to defendant No.3. Now, defendant No.3 filed suit for grant of permanent injunction, wherein, HSIIDC was restrained from taking forcible possession from defendant No.3 except in due course of law. Hence, HSIDC filed eviction petition under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, before Assistant Collector, Gurugram. Defendant No.3 produced a manipulated allotment letter issued from HSIDC. The plaintiff filed application under Order I Rule 10 of the Code of Civil Procedure, 1908, for becoming a party in the aforesaid suit.

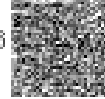
1.6 On 07.10.1993, the plaintiff submitted a bank guarantee of Rs.50,000/- and a demand draft of Rs.2,25,000/- with HSIDC, which was returned on 31.01.1994, with a remark that as per Court order, a period of three months was given to him to make a request for restoration along with extension fee and bank guarantee and the amounts deposited at belated stage, cannot be accepted. The plaintiff then filed CWP-7168-1994, challenging HSIDC's action of returning the demand draft and bank



guarantee, which was dismissed by the High Court with the following operative order:-

“Thus, it is clear that the fault lies with the petitioner and not on the Haryana State Industrial Development Corporation. Admittedly, the petitioner has not paid the amount till 7.10.1993. The bank draft sent by him for Rs.2,25,681/- on 6.10.1993 is no compliance o the order of this Court dated 12.12.1991. Therefore, the Haryana State Industrial Development Corporation rightly returned the bank draft to the petitioner. We do not see any justification for the petitioner in delaying the payment as per the direction of this Court. The petitioner has only to be blamed for the delay. He had not availed the concession given to him by the Corporation when he filed civil misc. application No. 2263 of 1992 in CWP No. 9444 of 1991. The petitioner himself was responsible for the delay and non-compliance of the orders of this court. We do not therefore, see any illegality or infirmity in the action of the respondent-Corporation. We are of the opinion that the writ petition is liable to be dismissed and is accordingly dismissed.”

1.7 Thereafter, plaintiff filed a civil suit on 05.01.1996, which was dismissed in default on 05.01.1997. Defendant No.3 was called upon to pay the amount immediately, failing which the offers shall stand withdrawn, however, defendant No.3 also failed to pay the amount. On 27.01.2020, the suit filed by defendant No.3 was dismissed. In fact, it was held that the allotment was never made in favour of defendant No.3 as the letter dated 12.04.2001 was only an offer of allotment. The first appeal filed by defendant No.3 was dismissed on 17.09.2010. Sh. R.K. Sharma died in the year 2012. In regular second appeal filed by defendant No.3, the High Court directed maintenance of ‘status quo’ regarding possession. During pendency of the appeal, defendant No.3 filed CWP-25215-2014, seeking issuance of a writ in the nature of mandamus to the Corporation for direction to issue formal letter of allotment, which was dismissed as withdrawn on 10.12.2014. One Sh. Sandeep Sharma filed an application for impleadment



as a party being the legal representative of late Sh. R.K. Sharma on the basis of a Will. On 28.04.2015, the regular second appeal filed by defendant No.3 was dismissed. Similarly, the application filed by Sh. Sandeep Sharma was also dismissed with scathing remarks. It was held that Sh. R.K. Sharma's case against resumption stood foreclosed in CWP-7168-1994, which was dismissed on 12.07.1995. The application filed by Sh. Sandeep Sharma was dismissed with costs of Rs.1,00,000/-. Sh. Sandeep Sharma filed SLP (C) No.18656-2015, which was dismissed after grant of leave to appeal.

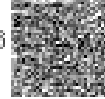
1.8 Parallely, Sh. R.K. Sharma filed a fresh suit while praying for direction to HSIDC to re-allot the disputed plot in his favour under current scheme. The civil suit was dismissed by the trial Court, which in appeal has been affirmed by the First Appellate Court.

2. Arguments put forth by learned counsel for the parties:-

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

2.2 Learned Senior counsel representing the appellant submits that there is a policy of re-allotment of the resumed plot framed by HSIDC, however, the Courts have failed to consider the plaintiff's case. He submits that plaintiff continues to be in possession of the property and he is prepared for re-allotment of the plot at current price as per new policy.

2.3 Per contra, learned Senior counsel representing the respondent has categorically stated that the allotment of industrial plots is governed by the 'Estate Management Procedure, 2015'. As per mandate of Clause 3.4(ii) (a), the allotment of industrial plot to general persons is only made through auction after the Corporation invites offers for allotment through advertisement.



3. Analysis and discussion:-

3.1 This Court has considered the submissions of learned Senior counsel representing the parties.

3.2 In fact, the plaintiff has already abused the process of the Court. Originally, the plaintiff was granted an opportunity by the High Court on 12.12.1991, however, he failed to comply with the same. Thereafter, his application for modification of order dated 12.12.1991 was dismissed on 30.07.1992. HSIDC still granted him an opportunity to pay the restoration fee. The plaintiff failed to avail numerous opportunities. He filed CWP-7168-1994, which was dismissed. The rights of the plaintiff stood foreclosed. Subsequently, he filed a civil suit, which was also dismissed in default on 05.01.1996. In between he agreed to sell the resumed property in favour of defendant No.3. Subsequently, defendant No.3 started rounds of litigation.

3.3 Despite Court's order on 30.07.1992, the Corporation vide letter issued on 30.03.1993, requested the plaintiff to remit the extension fee and restoration fee and balance cost of the plot, including enhanced cost, within a period of 35 days, failing which the Corporation would withdraw the offer in case of the plaintiff's failure fails to comply with the demand and the case would be closed. The plaintiff did not deposit the amount.

4. Decision:-

4.1 Keeping in view the aforesaid facts, no ground to interfere with the concurrent findings of fact, is made out.

4.2 Hence, the appeal is dismissed.

January 24th, 2025

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No