
(1989) 09 P&H CK 0015

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 6457-M of 1989

Anant Parkash Jain and others

APPELLANT

Vs

The State of Haryana

RESPONDENT

Date of Decision : 18-09-1989

Acts Referred:

Haryana Development and Regulation of Urban Areas Act, 1975 — Section 10

Citation : (1989) 09 P&H CK 0015

Hon'ble Judges : A.P. Chowdhri, J

Bench : Single Bench

Advocate : H.S. Gill, for the Appellant; R.A. Yadav, for the Respondent

Final Decision : Allowed

Judgement

A.P. Chowdhri, J.—Vide sale deeds dated 25.6.1986 the three Petitioners along with their brother Partap Singh, who has since passed away, sold 3234.20 square meters of land comprised in Khewat No. 916/877 Khatoni No. 1071/1, Khasra Nos. 93/19, 20, 23, 94/17, 24 and 1689/2 situated in revenue estate of village Charkhi Dadri, District Bhiwani, in favour of seven persons mentioned in para No. 2 of the petition. On a report made by the District Town Planner, Bhiwani the present FIR No. 73 dated 21.3.1987 u/s 10 of the Haryana Development and Regulation of Urban Area Act, 1975, was registered. Partap Singh died on 4.8 1987. The Petitioners have filed this petition u/s 482 of the Code of Criminal Procedure for quashing the F.I.R.

2. The contention of learned Counsel for the Petitioners is that the facts of the case do not disclose any contravention of Section 7 which is made punishable u/s 10 of the Act. Section 7 prohibits, inter alia, transfer of a plot in a colony. The word "colony" has been defined in Clause (c) of Section 2 of the Act which reads as under:

2(c) "colony" means an area of land divided or proposed to be divided into plots for residential, commercial or industrial purposes, but an area of land divided or

proposed to be divided--

(i) for the purpose of agriculture; or

(ii) as a result of family partition, inheritance, succession or partition of joint holding not with the motive of earning profit; or

(iii) in furtherance of any scheme sanctioned under any other law; or

(iv) by the owner of a factory for a setting up a housing colony for the labourers or the employees working in the factory; provided there was no profit motive; or

(v) when it does not exceed one thousand square meters, shall not be a colony.

3. Learned Counsel for the Petitioners contended that the sale of 3234.20 square meter having been made by four persons the area sold per person was less than 1000 square meters and, therefore, the sale would not attract the provisions of the Act. The learned Counsel appearing for the State is unable to point out any other provision of the Act which would bring the present case within the ambit of Section 7 of the Act. Accordingly, the petition is allowed and the F.I.R. referred to above and the subsequent proceedings, if any, are hereby quashed.