
(2010) 02 P&H CK 0142
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7006 of 1988

Charanjit Madan and Others	Vs	APPELLANT
State of Haryana and Others		RESPONDENT

Date of Decision : 08-02-2010

Acts Referred:

Haryana Urban Development Authority Act, 1977 — Section 17, 17(4)

Citation : (2010) 02 P&H CK 0142

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : None, for the Appellant; Ravi Dutt Sharma, D.A.G., for the Respondent

Judgement

K. Kannan, J.—The writ petition challenges the order of resumption passed by the Estate Officer u/s 17(4) of the Haryana Urban Development Authority Act of 1977 on the ground that a residential plot allotted to the original allottee P.K. Singhal had been converted for nonresidential purpose by a person named as M/s Choudhary, who was a tenant of the purchaser by name Charanjit Madan, the petitioner herein. The order of resumption came to be passed after serving notice to the petitioner that there had been a misuse of the property and the conversion in violation of the zoning regulations prevailing at the property. It appears that there had been an appeal filed against the order of resumption as provided u/s 17 of the HUDA Act, before the Administrator, Faridabad exercising the powers of the Chief Administrator, HUDA. It has been averred in para 4 of the writ petition that the appeal preferred, is still pending and it has not been disposed of. The cause of action for the writ petition itself was that the administration was taking steps to evict to all residents and shop owners in the locality and, therefore, the Court's interference was sought.

2. To the contention raised by the petitioner that the appeal to the Appellate Authority was pending at the time of the institution of the writ petition, the response on behalf of the HUDA is only to the effect that an order of resumption

was passed by the Estate Officer on proper consideration of facts and the rest of the details contained in the writ petition were being denied "for want of knowledge". Normally if the respondents had no knowledge about the pendency of the appeal, it ought to have a matter of verification of records before a definite stand was taken. In the absence of knowledge any denial does not amount to anything and I have to only proceed and assume that the appeal was still pending and not disposed of.

3. The right of appeal u/s 17 is statutory and if the appeal is still pending before the Chief Administrator, the same shall be decided within two months from the date of receipt of copy of the order. The Appellate Authority shall take note of the present position and whether there has been a cessation of the alleged unlawful user and he may proceed to pass an order in accordance with law. On the other hand, if the appeal has been already disposed of, the petitioner shall have an independent remedy to challenge the same if he is aggrieved and if such a challenge is legally permissible.

4. The writ petition is disposed of on the above terms.