
(1994) 03 P&H CK 0087
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5277 of 1988

Dr. Vinod Kumar Sethi

APPELLANT

Vs

Union Territory of Chandigarh and Others

RESPONDENT

Date of Decision : 17-03-1994

Acts Referred:

Capital of Punjab (Development and Regulation) Act, 1952 — Section 15, 8A

Citation : (1994) 107 PLR 635

Hon'ble Judges : Naresh Chander Jain, J

Bench : Single Bench

Advocate : Harbhagwan Singh and Arun Walia, for the Appellant; Sudershan Goel and Ranjit Saini, for the Respondent

Final Decision : Allowed

Judgement

Naresh Chander Jain, J.—The challenge in this writ petition pertains to Annexure P. 9 dated 30.5.1988 creating a demand of Rs. 7,05,556/- (Rupees Seven lacs Five Thousand Five Hundred and Fifty Six only) as composition fee for the construction of 5th Floor. The order impugned in the writ petition reads as under :-

Subject : Resumption of S.C.O. No. 56-57, Sector 17-D, Chandigarh. Memo. In compliance of learned Chief Commissioner's order dated 27.4.1988 restoring the site conditionally, you are required to pay Rs. 705556.00 (Rupees seven lacs five thousand five hundred and fifty six only) as composition fee of the fifth floor before or on 15.6.1988 positively failing which your site shall remain resumed. You are further required to obtain occupation certificate by 15.6.1988. This may be treated as most immediate".

2. Learned counsel for the petitioner, in the first instance, submitted that he is not liable to pay the aforementioned amount as he had purchased the site meant for construction of shop-cum-office on 22nd January, 1969. He has further argued that the petitioner was not associated with at the time of determination

of the amount in question and that Annexure P-9 has been passed without granting as opportunity of hearing to him.

3. Mr. Sudershan Goel, learned counsel for the respondents has submitted that the petitioner had given an affidavit before the Advisor to the Administrator, Union Territory, Chandigarh, that he will make payment of composition fee for the 5th Floor as soon as any decision is taken in this regard. He has further argued that the site which was resumed was restored to him conditionally on the payment of composition fee by the petitioner. Pointed attention of this Court was drawn to the observations made by the Advisor in Annexure P-8 which reads as under :-

"The petitioner has also given an affidavit that he will make the composition fee for the fifth floor as soon as any decision is taken in his case. The representative of the Estate Officer contended that the petitioner will be informed soon to make the necessary payment of the fifth floor as per the decision taken by the authorities. The attorney of the petitioner agreed to make the necessary payment within the time granted by the Court."

4. In view of the aforementioned factual position, this Court need not go into minute details of the matter particularly when it has remained undisputed before me that the petitioner was not granted any opportunity of being heard before making calculations which have been done unilaterally in Annexure P-9, This writ petition, in my considered view, deserves to succeed on the short ground that Annexure P-9 has been passed by the respondent-authorities at the back of the petitioner who, if granted an opportunity could have challenged not only the precise amount in question but also the criteria which the administration has in its mind for assessing the composition fee.

5. Mr. Sudershan Goel, learned counsel, was fair enough to concede before this Court that several cases of construction of 5th floor are pending decision before the Chandigarh Administration and show cause notices have been issued to the owners of the buildings like the petitioner who have constructed 5th floor. Consequently, this writ petition is disposed of with the observations that the Chandigarh Administration would give fresh show cause notice to the petitioner specifying the amount of composition fee for arriving at the precise amount and the petitioner would be entitled to take up all objections available to him. The Chandigarh Administration would be entitled to pass fresh orders in accordance with law. To the adoption of this course, even the counsel for the petitioner had no objection.

6. For the reasons recorded above,, this writ is allowed and the order Annexure P-9 is hereby quashed. No costs.