

(2010) 10 P&H CK 0257
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 749 of 2010

Green Avenue

APPELLANT

Vs

Haryana Urban Development Authority and Another

RESPONDENT

Date of Decision : 27-10-2010

Acts Referred:

Citation : (2011) 163 PLR 786

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Judgement

Permod Kohli, J.—Keeping in view the controversy involved and with the consent of learned counsel for the parties, this petition is disposed of at motion stage itself.

2. The petitioner-Society is registered under the Societies Registration Act, 1860 (as amended by the Punjab Amendment Act, 1957). The petitioner-Society has been established for the welfare of the residents of Sectors 11-12 (Part II), HUDA, Panipat. The members of the Society are allottees/transferees of plots in Sector 12 of HUDA, Panipat. These plots were advertised somewhere in the year 1985. The allottees of plots indicated in paragraph 2 of the writ petition opted for preferential plots for which additional price ranging from 10% to 20% was to be paid. In the lay out plan of the aforesaid Sector, the land opposite the plots was proposed to be developed as a green belt area by HUDA. There is specific averment in the writ petition that the allottees opted for these plots on payment of extra price only in view of the proposed green park in front of these plots. It is alleged that despite the land being earmarked for development of the green belt, the HUDA did not develop the same, in accordance with the lay out plan. Representations were made by the allottees seating development of the area as a green belt in accordance with the lay out plan. The grievance of the petitioner is that despite various representations and non-performance of the obligations under the lay out plan of the area, the respondents continue to violate the same and converted part of the land meant for the green belt into a traffic park for

which a separate representation dated 16.8.2009 (Annexure P-II) was made.

3. When this writ petition was filed, while issuing notice of motion, this Court granted interim stay, as asked for, vide order dated 18.1.2010. It is alleged that despite interim stay, the respondents continued to raise construction. The petitioner has placed on record some photographs not only with the writ petition but also alongwith the Contempt Petition i.e. COCP No. 1412 of 2010 filed for alleged violation of the Court direction. From the photographs, it appears that some new construction is being raised.

4. In the reply filed, the averments made in the writ petition regarding reservation of the area for green park is admitted. The respondents have also admitted construction of the traffic park in the said area. However, it is sought to be justified that the same is being done in larger public interest for education of the children and the residents of the area regarding traffic rules.

5. I have heard learned counsel for the parties at length. There is no dispute to the effect that the area in front of the plots mentioned in the writ petition was reserved for green belt under the lay out plan. It is also admitted position that some of the allottees paid extra price between 10% to 20% for getting preferential plots in front of the proposed green belt. It is equally admitted position that the green belt has not been developed properly till date, as is evident from various photographs and the respondents have raised some construction in the aforesaid area earmarked for green belt. From the averments made in the contempt petition, it appears that some new constructions are being made, despite the stay order by this Court. Once the lay out plan is notified and duly approved by the competent authority, the respondents were not entitled to make any changes therein and that too without the modification of the lay out plan by the competent authority. The entire exercise has been carried out by the respondents in gross violation of the lay out plan and the bye-laws/zoning plan of the area which is impermissible in law. However, keeping in view the fact that some of the area of the green belt has been utilized for public purpose, it is not deemed appropriate to order removal/demolition of the same, particularly, the same having been raised by public money. However, at the same time, the rights of the members of the petitioner-Society are to be protected and the sanctity of the lay out and zoning plan is to be maintained.

6. In view of the totality of the circumstances, this petition is disposed of with the following directions:-

- i) The establishment of the traffic park is maintained only to the extent the construction already raised in the area earmarked for green park;
- ii) Respondents will not raise any new construction in the entire area earmarked for green belt under the lay out plan; and
- iii) The entire remaining area shall be developed as a green belt within a period of two years.