
(1999) 03 P&H CK 0021

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 14721 of 1994

Inderjit Chopra

APPELLANT

Vs

Union Territory Administration and Others

RESPONDENT

Date of Decision : 11-03-1999

Acts Referred:

Chandigarh Lease Hold of Sites and Buildings Rules, 1973 — Rule 12(3)

Citation : (1999) 122 PLR 233 : (1999) 2 RCR(Civil) 590

Hon'ble Judges : G.S. Singhvi, J;Amar Dutt, J

Bench : Division Bench

Advocate : Deepak Thaper, for the Appellant; Subhash Goyal, for the Respondent

Final Decision : Allowed

Judgement

G.S. Singhvi, J.—The petitioner has prayed for quashing of the orders Annexures P-1 and P-2 passed by the Assistant Estate Officer, exercising the powers of the Estate Officer, and the Chief Administrator, Union Territory, Chandigarh-respectively.

2. There is no dispute between the parties that S.C.O. Site No. 363, Sector 32D, Chandigarh was allotted to the petitioner in 1983 for a premium of Rs. 4,11,000/- and that after obtaining possession of the site by paying 25% of the premium, the petitioner has paid all the instalments in accordance with the letter of allotment. It, however, appears that there is some dispute between the parties about the ground rent payable by the petitioner. However, instead of initiating action under Rule 13 of the Chandigarh Lease Hold of Sites and Building Rules, 1973 (hereinafter referred to as "the Rules"), the Assistant Estate Officer issued notice to the petitioner under Rule 12(3) of the Rule and passed the order Annexure P.1 for cancellation of the lease and forfeiture of 10% of the premium. His appeal was dismissed by the Chief Administrator.

3. After hearing Shri Deepak Thaper and Shri Subhash Goyal, we are convinced that the orders impugned in this petition deserve to be quashed.

4. Admittedly, the petitioner did not commit default in the payment of instalments of premium in terms of Rule 12(2) of the Rules. Therefore, the Assistant Estate Officer did not have the jurisdiction to initiate action under Rule 12(3) of the Rules or to pass order cancelling the lease and forfeiture the premium on the assumption that the petitioner has defaulted in the payment of instalments of premium. Consequently, the order Annexure P.1, is liable to be declared as void. The appellate order also deserves to be quashed because it is nothing but an order confirming a void order. Moreover, the failure of the appellate authority to examine and decide the contention urged on behalf of the petitioner that the Assistant Estate Officer did not have the jurisdiction to order cancellation of the lease also justifies invalidation of the order passed by the Chief Administrator.

5. For the reasons mentioned above, the writ petition is allowed. Orders Annexure P-1 and P-2 are quashed. However, it is made clear that the respondents shall be free to take appropriate action for recovery of the ground rent.