(1975) 12 P&H CK 0010

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ No. 3599 of 1973

Jagdev Singh APPELLANT

Vs

The Amritsar Improvement Trust, Amritsar and another RESPONDENT

Date of Decision : 05-12-1975

Acts Referred:
Punjab Town Improvement Act, 1922 — Section 36

Citation : (1975) 12 P&H CK 0010

Hon'ble Judges : M.R. Sharma, J

Bench : Single Bench

Advocate : T.N. Bhalla, for the Appellant; H.S. Gujral, for the Respondent

Final Decision : Dismissed

Judgement

M.R. Sharma, J.—The Amritsar Improvement Trust, Amritsar, Respondent No. 1, framed scheme No. 61 for the area bounded by Maqbool Road. Circular Road and Jethuwal Distributor, Amritsar, which was s noticed by the Punjab Government vide Notification No-2257/2III-6-/ 7287(sic), dated June 2/1(Sic), 1965. The layout, Plan, i.e. Drawing No. 1393 in respect of the said scheme was published in the daily Tribune on October 28 1969 and in Official Gazette Part III on November 23, 1969. The case of the Petitioner is that his land comprised in Khasra No. 343 measuring 205(sic) square yards was included in Plot No. 114 demarcated in this layout plan and still continues to be in his possession.

2. On March 20, 1972, Respondent No. 1 passed Resolution No. 693, Annexure ''B'' which reads as under:

Resolution

(1) The layout is accepted according to HUDCO Scheme.

(2) The Plans which she trust has approved till 20th March, 1972, after getting development fee or those regarding which the development fee has been received, be fitted in this scheme and the plans he approved.

(3) The plans submitted after 20th March, 1972, be approved after charging the reserved price fixed by the Trust according to rules if the land could be fitted in the plots.

(4) Approval be given to the Collector to pay the compensation of the land possession whereof is to be taken under this scheme.

(5) The trust has also taken this decision that according to the HUDCO scheme, the people be provided with duly built houses. Applications be called for from the people for this purpose, with which the following amount be taken as earnest money.

(a) Rs. 500/- for the building on a plot of 100 square yards (Janta Group).

(b) Rs. 1000/- for a building on a plot of 200 square yards (low income group).

(c) Rs. 2000/- for a building on a plot of 300 square yards (Medium income group)

(d) Rs. 500/- only for a plot of 500 square yards.

The Trust has also taken this decision that maximum publicity be made about it and posters be pasted in the city.

3. The Petitioner submitted a plan of the building which he proposed to construct on this plot along with an application to the trust stating therein that he may be allowed to retain the plot on payment of development charges. In paragraph No. 6 of the petition, the Petitioner has also mentioned some other persons who have been allowed to retain their original land by the trust after getting some development charges from them.

4. On November 27, 1972, the Trust issued a notice u/s 36 of the Punjab Town Improvement Act, 1922 (hereinafter referred to as the Act). The Petitioner alleges that he made several attempts to have a look at the plans for making objections against the amended layout plan but the plans were not shown to him.

5. On April 24, 1973, the objections filed by the Petitioner and some others were rejected with the following observations:

They have repeated their written objections. They have pressed for the exemption of their land and for sanction of plans. The Trust told them that the Trust would make every effort to accommodate every local displaced person in this scheme. Even those affected persons whose lands could not be given up on account of the enforcement of HUDCO scheme, they would also be tried to be accommodated in this scheme by allotment of land at other place or in any other scheme. Besides this matter, there is no other merit in these objections. Hence these objections are rejected and the Trust has sanctioned the amended layout of this scheme: Drawing No. AIT/1767. Now this may be sent to the Punjab Government for sanction.

6. The action of Respondent No. 1 is being challenged in this petition on two

grounds. Firstly it is alleged that by introducing the HUDCO scheme Respondent No. 1 has converted a development scheme into a housing scheme. Secondly, it is submitted that the Trust having made an offer in its resolution dated March 20, 1972, Annexture ''B'' that persons like the Petitioner would be allowed to retain their original land if they agreed to pay the development charges and this offer having been accepted by the Petitioner, a complete contract between the parties had come into being, which could not be annulled by Respondent No. 1 by taking unilateral action.

7. In the return filed on behalf of Respondent No 1. it has been admitted that the owners of plots Nos. 50, 51 and 52 were allowed to retain their original plots on payment of development charges but it was further asserted that these plots were not required by the Trust as these were not effected by the HUDCO scheme of the Government of India. It is also admitted that the layout plan No. 1393 made earlier in respect of this scheme had to be revised for introducing HUDCO scheme under instructions from the Government of India in a part of the area covered by this scheme, it as only for this reason that a notice u/s 36 of the Act was published in the Daily Tribune on November 27, 1972, for inviting objections against the revised layout No. AIT/1767.

8. The Learned Counsel for the Petitioner has drawn my attention to an earlier case decided by me, which is reported as Kartar Singh v. The State of Punjab (1973) 75 P.L.R. 743, for proposition that whenever a scheme is altered by the Trust it has to give a fresh Notice u/s 36 of the Act and also to carry out the further proceedings envisaged by the Government for finalising a scheme. In that case a development scheme had been framed to begin with and it was assumed that plots would be made available to displaced landholders. Later on, the Trust changed the scheme and took a decision to use the land for making small plots for the squatters. In these circumstances, after discussing the various provisions of the Act, I held that where a trust takes out some of the characteristics of the earlier scheme and converts it into another scheme it has to issue a notification u/s 36 of the Act afresh had to take other necessary action under the Act afresh.

9. Mr. Gujral, the Learned Counsel for the Respondents, has submitted that the user of only a small area of the old scheme was being charged by providing smaller plots on which built houses would be sold to persons in the low-income group and the weaker sections of the society. According to him, in all other respects, the scheme remains the same.

Ore of the considerations why I interfered in Kartar Singh''s case (supra) was that no injustice was being caused to the Trust, as is aparent from the following observations:

besides, such an interpretation doses not do any injustice to the Improvement Trust. After all, the Trust is always in a position to realise the money spend by it in the execution of a scheme by selling the plots at higher rates.

10. The circumstances of the instant case are materially different. The sizes of

same of the plots have been made smaller for the purpose of providing built houses to the members of the weaker sections of the society. A reference to Resolution No. 693 passed on March 20, 1972, by the Trust would show that the layout of the scheme had been sanctioned according to Hudco scheme. If the Petitioner was aggrieved of the alteration in the sizes of some of the plots because of the Hudco scheme, be should have come to this Court immediately after this resolution was passed. After a lapse of long period, especially when the members of the weaker sections of the society for whom, the houses are being built are not before me, it would not be proper for me to exercise discretion under Article 226 of the Constitution for allowing relief to the Petitioner.

11. Even otherwise, a comparision of the two plans would show that the main roads and streets have almost been left intact. Some area which was set apart in the earlier plan to be utilised for an unspecified purpose in future has now been utilised for providing a school. By and large the characteristics of the old scheme have been kept intact. A decision to sell built houses inetead of selling vacant sites for houses does not tantamount to the change of a statutory scheme under the Act. In these circumstances, it is difficult to hold that the scheme had in fact been altered by Respondent No. 1. The Learned Counsel for the Petitioner submits that by notifying the changes u/s 36 of the Act Respondent No. 1(sic) had by implication conceded that a new scheme had been introduced There appears to be no merit in the submission because the notice might have been given out of abundant caution or under the mistaken belief that such a notice was really necessary.

12. The second plea raised by the Petitioner need not detain me for long. A reading of Resolution No. 693 dated March 20 1972, shows that the layout had been sanctioned according to HUDCO scheme. In these circumstances, those plots which were vitally affected by this scheme could not be allowed to have been built upon even if their plans had been filed after that date, for, otherwise had such a permission been granted that would have meant a negation of the HUDCO scheme itself.

13. On a careful consideration of the whole matter, I am of the view that there is no merit in this petition which is hereby dismissed, but, in the circumstances with no order as to costs.