
(1995) 01 P&H CK 0019
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 4 of 1995

Jagdish

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 20-01-1995

Acts Referred:

Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 — Section 12(1)

Citation : (1995) 110 PLR 635

Hon'ble Judges : V.S. Aggarwal, J

Bench : Single Bench

Advocate : S.S. Dinarpur, for the Appellant; K.S. Godara, A.A.G., for the Respondent

Judgement

V.S. Aggarwal, J.—A complaint was filed against the petitioner, Jagdish by the State of Haryana through its District Town Planner, Bhiwani, alleging that land comprising of Khasra No. 122/12 situated on the Lahoru Road, Government Hatchery and Poultry Farm, Bhiwani, falls within the revenue estate of village halluwas. It was declared as a controlled/area vide the Haryana Government, notification dated 26.3.1976. The said land was lying vacant at the time of the notification. Petitioner, raised unauthorised construction on the said land without prior permission of the Director, Town and Country Planning, Haryana, Chandigarh. It was noticed on October 30, 1986 and report regarding raising of residential construction by the petitioner was made. A show cause notice was served on the petitioner to stop the construction but he went on raising the same. The petitioner was alleged to have violated Sections 3 and 7(1) of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963, (in short the Act).

2. The Chief Judicial Magistrate, Bhiwani on January 22, 1994 held the petitioner guilty of the offences u/s 12(1)(a) and (b) of the Act for violation of various provisions of Sections 3 and 7(1) of the Act. He was sentenced to undergo

rigorous imprisonment for one year and pay a fine of Rs. 3000/-. In default of payment of fine, the petitioner was to undergo rigorous imprisonment for another three months. Appeal filed by the petitioner, was dismissed by the Additional Sessions Judges, Bhiwani on December 23,1994.

3. I have heard learned counsel for the petitioner as well as the learned A.A.G. Haryana, representing the State.

4. The main thrust of the arguments of the learned counsel representing the petitioner was that the land in question was situated within the municipal area, Bhiwani. He relied on the copy of the sale deed so as to assert that as per recitals therein the land must be taken to be situated within the municipal area of Bhiwani.

5. However, on perusal of the record it is clear that it cannot be established on the basis of the sale deed Ex. DI that the land can be held to be situated within the municipal area of Bhiwani. In fact Vijay Kumar DW1, who proved the copy of the sale deed was not sure if the land was situated within the municipal area of Bhiwani or not.

6. There was no dispute raised that construction has been raised on the vacant land some time in the year 1986.

7. Copy of the Jamabandi Ex. P3/B produced by prosecution reveals that the said Khasra number was situated not within the Municipal limits of Bhiwani but formed part of village Halluwas, Tehsil and District Bhiwani. In the face of the said evidence, I find no reason to disturb the finding of fact already arrived at by the Ld. Chief Judicial Magistrate and Ld. Additional District and Sessions Judge, Bhiwani.

8. In the end my attention was drawn to the fact that the offence, if any, took place in the year 1986 and as per Section 12(I)(a) and (b) of the Act, the maximum punishment could extend to a fine of rupees ten thousand and in case of a continuing contravention with a further fine, which may extend to rupees five hundred every day after the date of the first conviction.

9. Keeping in view the relevant provision of Section 12(1)(a) and (b) above it is clear that the sentence awarded to the petitioner requires modification. Accordingly, the revision Petition fails and is dismissed on merits. The order of sentence is modified. The petitioner is sentenced to a fine of Rs. 10,000/-. In default of payment of fine he shall undergo imprisonment for one month.