(2014) 11 P&H CK 0185

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1908 of 1991 (O&M)

Mansa Devi Charitable Trust (Regd.) APPELLANT

Vs

State of Haryana and Others RESPONDENT

Date of Decision : 20-11-2014

Acts Referred:

Constitution of India, 1950 — Article 14
Punjab New Capital (Periphery) Control Act, 1952 — Section 12A, 12-A, 3

Citation : (2015) 177 PLR 830

Hon'ble Judges : Surya Kant, J;Raj Mohan Singh, J

Bench : Division Bench

Advocate : Ravinder Singh, Advocates for the Appellant; S.C. Pattar, Sr. D.A.G, Advocates for the Respondent

Judgement

Surya Kant, J.—The petitioner is stated to be a Charitable Trust set up for the purpose of carrying out philanthropic activities in and around Mata Mansa Devi Temple near Chandigarh. The Trust has impugned the notification dated 21.03.1972 whereby revenue estate of village Bhainsa Tibba, District Panchkula was brought within the ambit of Punjab New Capital (Periphery) Control Act, 1952 and consequently ban on new constructions unless sanctioned by the competent authority, was imposed. The Trust also impugns the order dated 29.01.1991 (Annexure P5) whereby it was directed to stop construction of nine shops which are an integral part of the dharamshala. The case of the petitioner is that the entire area of village Bhainsa Tibba could not have been brought within the purview of 1952 Act and the action of the authorities in this regard does not stand to the test of Article 14 of the Constitution. The Trust also relies upon Section 12-A of the Act which, inter alia, enables the authorities to compound the construction already raised on deposit of composition fee. It is urged that the buildings/structures owned by the petitioner-Trust were constructed much before the Act came into force in the area of village Bhainsa Tibba.

2. The State of Haryana and its District Town Planner, Panchkula have filed the

written statement maintaining that the provisions of 1952 Act have been extended around the Union Territory of Chandigarh to ensure regulated development of the peripheral area. It is, however, admitted in para 4 of the written statement that earlier land in dispute was in possession of an industrial unit but the construction was converted into dharamshala in the year 1982. The petitioner''s plea that the Trust runs charitable activities has not been seriously controverted. The respondents have further contended that since construction was raised without permission of the competent authority, the impugned action directing the petitioner to restore the land to its original condition is fully justified.

3. We have heard learned counsel for the parties and gone through the record.

4. It may be mentioned at the outset that the operation of the impugned order was stayed by this Court way back on 05.02.1991 and that order is still operative.

5. There can indeed be no quarrel that the extension of the provisions of 1952 Act in and around Chandigarh is in furtherance of the legislative policy to ensure regulated development of the area and to prevent haphazard constructions which often result into slums. The laudable object behind Section 3 of 1952 Act which enables the State Government to bring an area within the ambit of the Statute after issuing a notification, thus, cannot be faulted with nor its importance can be undermined. It does not violate Article 14 of the Constitution as it has been applied uniformly. We thus do not find any illegality in issue of the notification dated 21.03.1972 whereby the revenue estate of village Bhainsa Tibba has been brought within the purview of 1952 Act.

6. There is, however, no denial to the fact that the petitioner is a Charitable Trust. It runs dharamshala and some social activities in the vicinity of Mata Mansa Devi Temple. It appears that some shops were added in the existing building of dharamshala to generate income for the charitable activities. So long as, there is no profit motive and the substantial part of the structure was/is being used for charitable activities only, the instant case appears to be fit to qualify for the exemption by the competent authority/State Government in exercise of its powers under Section 12A of the Act and regularize the existing structure subject to deposit of composition fee as may be leviable in accordance with law. This would be subject to the further condition that no additional construction shall be raised by the petitioner unless duly sanctioned by the competent authority. We order accordingly. For the reasons afore-stated, the writ petition is allowed to the extent above and the impugned order is thus set aside.