
(2000) 12 P&H CK 0167
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1777 of 2000

Rajiv Kumar

APPELLANT

Vs

Advisor to the Administrator Union Territory, Chandigarh

RESPONDENT

Date of Decision : 19-12-2000

Acts Referred:

Capital of Punjab (Development and Regulation) Act, 1952 — Section 8

Citation : (2001) 4 RCR(Civil) 30

Hon'ble Judges : Mehtab S. Gill, J; Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Mr. Rakesh Garg, for the Appellant; Mr. Subhash Goyal, for the Respondent

Final Decision : Allowed

Judgement

Jawahar Lal Gupta, J.—On February 22, 1987, the petitioners gave a bid for the Site No. 324-25, Sector 38, Chandigarh for a Flour Mill. Their bid of Rs. 7,60,000/- was accepted. However, on account of a default in payment of one of the instalments, the site was resumed. The petitioners filed an appeal. The Chief Administrator gave an interim direction directing the petitioners to make the payment of the entire amount by July 24, 1998. On May 14, 1998, the Estate Officer intimated to the petitioners that the amount due was Rs. 5,74,157/-. On July 24, 1998, the petitioners deposited a sum of Rs. 5,81,157/-. On July 26, 1998, the Chief Administrator reserved final orders in the appeal in which the interim order dated May 7, 1998 had been passed. On November 23, 1998, the petitioners were informed that the appeal had been dismissed. The petitioners filed a revision petition before the Adviser. (While the revision petition was pending, the drafts for the amount of Rs. 5,81,157/- were returned to the petitioners vide letter dated February 22, 1999 by the Estate Officer). On October 20, 1999, the Adviser set aside the order of resumption passed by the authorities. She ordered the restoration of the site to the petitioners on the condition that "the outstanding amount alongwith forfeiture of 10% is paid within

30 days reckonable from the despatch of the order.....". The petitioners represented to point out that the drafts had been deposited in pursuance to the order of the Chief Administrator. Irrespective of that, the petitioners got the drafts re-validated and submitted them on November 10, 1999. On December 4, 1999, the petitioners were further called upon to deposit another amount of Rs. 1,65,991/-. Vide letter dated January 6, 2000, they were informed that they had failed to comply with the order dated October 20, 1999 passed by the Chief Administrator and the drafts of Rs. 5,81,157/- were again returned. On January 27, 2000, the Estate Officer informed the petitioners that the order of resumption had become operative. Hence this petition.

2. The case was initially listed on February 9, 2000 before the Bench consisting of K.K. Srivastava and J.S. Khehar, JJ. Their Lordships were pleased to record the undertaking of the counsel for the petitioners that the drafts for the amount of Rs. 5,81,157/- shall be deposited with the Registrar after re-validation. It was further undertaken by the counsel that another draft for a sum of Rs. 1,65,991/- shall also be deposited. Mr. Rakesh Garg states that the drafts were actually deposited with the Registrar in accordance with the directions given by the Court.

3. Mr. Rakesh Garg further submits that the petitioners had deposited Rs. 5,81,157/- on July 24, 1998 in conformity with the directions given by the Chief Administrator on May 7, 1998. The action of the authorities in returning that amount or taking the view that the directions had not been complied is wholly erroneous. Mr. Subhash Goyal accepts this position. Thus, the order passed by the Adviser on October 20, 1999, a copy of which has been produced as Annexure P. 12 and the directions for forfeiture of 10% of the amount cannot be sustained. Equally clear is the fact that even the resumption of the site was passed on a wholly wrong assumption of facts. Resultantly, the orders dated October 20, 1999, a copy of which has been produced as Annexure P.12 and the orders of resumption are set aside. The drafts deposited with this Court will now be handed over by the Registrar to Mr. Subhash Goyal, counsel for the respondents. Mr. Garg states that the petitioners shall instruct the Banker to honour these drafts whenever presented, The excess amount already deposited by the petitioners shall be refunded to them within one week of the deposit of the amount.

4. The writ petition is, accordingly, disposed of. No costs.

5. Petition allowed.