
(2007) 02 P&H CK 0076

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 19680 of 2004

Ram Singh and others

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 20-02-2007

Acts Referred:

Citation : (2007) 2 RCR(Civil) 627

Hon'ble Judges : Jasbir Singh, J and Vinod K.Sharma, J

Advocate : Mr. Mahavir Sandhu, Advocate.Ms. Mamta Talwar, A.A.G., Haryana,
Mr. R.K. Lamba, Advocate., Advocates for appearing Parties

Judgement

Jasbir Singh, J. (Oral)

1. The building plan of the petitioners to construct building is still pending with respondent No. 3. After receipt of application for sanction of building plan, following communication was sent by the Executive Officer, Municipal Council, Ambala City to the Director, Urban Development Department, Haryana, Chandigarh :

"Sir,

On the subject cited above, it is requested that S/Shri Ram Singh son of Chhaju Ram, Rekha Rani wife of Rajesh Kumar and Kamal son of Shri Subhash Chand, the owners of part of Khasra No. 471 had submitted the application in this Municipal Council for grant of sanction for the construction of three shops on the said land.

The aforementioned three building plans came under the sanctioned Government Town Planning Scheme No. 4B, over which land these applications were given for the construction of building shops, earlier the said area was the prohibited area for building activity vide scheme No. 4B. But as per the Government letter Memo No. 31/2003/IC dated 5.6.2003 this prohibition has been removed and this condition was imposed that in this area the building construction plan shall be sanctioned only after seeking the approval of the Government. The applicants are

ready to pay all kind of fees and other charges thereon. The building site plan have been prepared in accordance with the building byelaws.

Therefore, you are requested that the approval to pass these building plans be got from the Government and be sent to this office."

In response to the above said letter the Officer concerned replied as under :

"2. Vide memo letter No. CTP/AII/2003/72221 dated 29.12.2003 issued by this office, it is already requested to you that after got conducting the complete survey of TP Scheme No. 4B be sent to this office so that as per the order of the Government dated 2.6.2003 regarding unauthorised colonies/constructions the resolution be sent to the Government for their regularisation. The building site plans received from you are returned in original and requested to you that after rejecting the site plan of the applicants the same immediately be returned to the applicants."

We feel that the underlined portion of the reply given by the Director, Urban Development Department Haryana, Chandigarh is not as per law. Under the provisions of the Haryana Municipal Act, this Officer is not competent to reject or sanction any building plan. The matter was sent to him for a different purpose and the Officer erred in ordering that the building plan be rejected.

2. In view of this, we set aside the underlined portion of the order (Annexure P6) as reproduced above and direct the Executive Officer, Municipal Council, Ambala City to take action, on application moved by the petitioners, for the sanction of their building plan as per law. Needful be done within a month from the date of the receipt of the copy of this order.

This writ petition is disposed of in the above terms.