
(1985) 05 P&H CK 0075
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1627 of 1974

S. Hira Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 06-05-1985

Acts Referred:

Citation : (1985) PLJ 371 : (1985) RRR 369

Hon'ble Judges : D.S.Tewatia, J and S.P.Goyal, J

Advocate : Mr. H.S. Riar, D.A.G., Punjab., Advocates for appearing Parties

Judgement

D. S. Tewatia, J. (Oral)

1. The petitioner has impugned the scheme of the respondentImprovement Trust and the sanction accorded by the Government under Section 42 subsection (2), inter alia, on the ground that the petitioner had not been issued notice under Section 38 of the Punjab Town Improvement Act, 1922 (hereinafter referred to as "the Act").

2. It is admitted in the written statement that no notice under Section 38 of the Act was issued to the petitioner. It is, however, averred that the petitioner who purchased the acquired site in question on 28th April, 1970 had not informed the Trust about the said purchase nor had he got it entered in the revenue record.

3. It is the admitted case, however, that the purchase was made by way of a registered saledeed which is treated to be a public notice of the said fact and none can be heard to plead ignorance thereof. For the reasons afore mentioned it is held that the respondentImprovement Trust has failed to comply with the mandatory requirement of Section 38 of the Act and, therefore, the sanction accorded to the scheme in question to the extent it concerns the property of the petitioner is vitiated in view of the Full Bench decision of this Court in Prof. Jodh Singh v. Jullundur Improvement Trust, 1984 PLJ 413 : 1984 R.R.R. 36. We, therefore, quash the notification granting sanction issued under subsection (2) of Section 42 of the Act qua the petitioner. Since notice under Section 38 is required

to enable the party concerned to file objections to the acquisition of his property or the scheme, we, therefore, direct the petitioner to file his objections, if any, on or before 19th July, 1985, which shall be decided in accordance with law. The petition stands disposed of accordingly with no order as to costs.