
(2014) 04 P&H CK 0154
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 21961 of 2013 (O&M)

Satish Kumar

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 07-04-2014

Acts Referred:

Haryana Urban Development Authority Act, 1977 — Section 18

Citation : (2014) 04 P&H CK 0154

Hon'ble Judges : Surya Kant, J; Lisa Gill, J

Bench : Division Bench

Advocate : Manoj Sood, Advocate for the Appellant; Palika Moga, DAG, Haryana and Mr. Sandeep Moudgil, Advocate for Respondents No. 2 to 4, Advocate for the Respondent

Final Decision : Allowed

Judgement

Surya Kant, J.—The petitioners are two brothers. They seek quashing of orders dated 09.04.1996, 28.08.1996, 15.11.2010, 04.01.2011 and 19.06.2012 (Annexures P-3, P-4, P-7, P-11 and P-12 respectively), whereby residential House No. 181, Sector 7, Faridabad was resumed and their appeals/revision petition against the resumption order has been dismissed.

2. The aforesaid residential site was allotted to the deceased father of petitioners late Sh. Ghanu Ram. The allegation was that in one of the rooms of the residential house, a gift shop had been opened, which amounted to use of residential site for commercial purposes.

3. The case of the petitioners is that after the resumption order was passed or the appeal was dismissed, their deceased father filed an affidavit on 13.03.1997 to the effect that the misuse of the site had been stopped and it stood restored to the residential purposes only.

4. The case of the petitioners is that ignoring that affidavit, eviction proceedings u/s 18 of the Haryana Urban Development Authority Act, 1977 have been

initiated after a period of 11 years.

5. The petitioners have, accordingly, approached this Court.

6. Having heard learned counsel for the parties, we are of the considered view that no written statement from the respondents is required at this stage. We say so for the reason that the question whether misuse of the residential house has been stopped or not, being a question of can be effectively determined by the respondent-authorities to their satisfaction. Similarly, the respondents can very well ascertain whether the deceased father of the petitioners had filed an affidavit dated 13.03.1997 to the effect that the residential house stood restored to its status quo ante.

7. Consequently, we allow this petition to the extent that if the petitioners are found to have stopped misuse of the residential premises and if it is being used only for residential purposes, in that event, resumption proceedings or consequential eviction proceedings cannot sustain. The Estate Officer, Faridabad is, accordingly, directed to get the site inspected and if it is reported that there is no misuse of the site and it is under use for residential purposes only, in that event, the resumption order or the eviction proceedings shall be deemed to have been set aside. However, if it is found that part of the residential premises is still being misused for other than residential purposes, the Estate Officer shall grant three months time to the petitioners subject to imposition of penalty etc. within which they shall be required to restore the premises to its original use, failing which the authorities shall be at liberty to proceed against the petitioners in accordance with law.

8. Ordered accordingly. Dasti.