
(1987) 03 P&H CK 0004
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3931 of 1979

Shri Brij Bhushan

APPELLANT

Vs

The Union Territory Administration, Chandigarh and Others

RESPONDENT

Date of Decision : 10-03-1987

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1987) 03 P&H CK 0004

Hon'ble Judges : M.R. Agnihotri, J

Bench : Single Bench

Advocate : J.L. Gupta and Rajiv Atma Ram, for the Appellant; R.K. Chhibber, for the Respondent

Judgement

M.R. Agnihotri, J.—In this writ petition under Articles 226/227 of the Constitution of India, Petitioner Brij Bhushan has challenged the orders of resumption of his residential plot passed on 20th April, 1972 (Annexure P/2), and 19th September, 1977 (Annexure P/5), and the final order dated 18th May, 1979 (Annexure P/7), by which his application for review against the same was rejected by the Chief Commissioner, Chandigarh.

2. A residential plot was purchased by the Petitioner in open auction on 11th February, 1962. The allotment of the plot by way of formal order was made on 14th March, 1962, and its possession was delivered to him on that very day. The sale price of the plot was paid by the Petitioner on 14th March, 1965, and the plan for construction was sanctioned within a couple of months.

3. Due to certain circumstances detailed in the writ petition, the Petitioner could not construct the building on the plot in question though the plans had been sanctioned on 17th May, 1965, in the first instance and on 21st February, 1974, in the second instance. During this period, when despite extensions granted from time to time the construction was not made by the Petitioner, the plot in question was resumed on 20th April, 1972, vide order passed by the Estate Officer, Chandigarh Administration. The revision petition preferred against the same was

accepted by the Chief Commissioner, Chandigarh, on 25th July, 1973, and fresh extension was granted to him upto 31st July, 1974. However, construction still could not be undertaken and ultimately fresh order of resumption was passed on 19th September, 1977 (Annexure P/5). The Petitioner then filed an application for review of the resumption order which was dismissed by the Chief Commissioner on 18th May, 1979. So, in substance, in this writ petition, the original order of resumption dated 20th April, 1972, the second order of resumption dated 19th September, 1977, and the final order of the Chief Commissioner, Chandigarh, passed on 18th May, 1979, by which review application of the Petitioner was rejected, are sought to be quashed by invoking the writ jurisdiction of this Court.

4. The written statement filed on behalf of the Respondents has almost admitted the factual position and the only plea taken by the Respondents is that the Petitioner should have constructed the house immediately after the plans were sanctioned. Obviously, the keenness and zealotry on their part to ensure speedy construction in the city have been the circumstances compelling the Respondents to order resumption of the plot but one salient feature of the whole process has been lost sight of. After 1st November, 1966, when the Union Territory of Chandigarh came into existence, construction activity in the city got a set back. There was a trend towards disposal of built houses as well as to have extensions from time to time so far as unbuilt and incomplete residential and commercial sites/buildings were concerned. Due to uncertain future of the city during the last twenty years, if an owner of a site has not been able to complete construction or even undertake construction, he cannot be accused for the delay. In any case, now since the Petitioner has shown keenness and anxiety on his part to undertake the construction and complete the same within this year, I think it is a fit case in which the order of resumption should be set aside and the last opportunity be given to him for completing the construction. In this approach, I am fortified by the law laid down by the Full Bench of this Court in *Shri Ram Puri v. The Chief Commissioner, Chandigarh* (1982) 84 P. L. R. 388., S. S. Sandhawalia, C. J., by majority judgment, held that there is no manner of doubt that resumption in the sense of a divestiture of title would be the ultimate civil sanction in the armoury of the authorities to effectuate the twin purpose of a regulated and planned development as also the expeditious creation of the capital city in the State. It bears repetition that the power of resumption is the ultimate civil sanction and must, therefore, be a weapon of last resort. Inevitably it should be used with great caution and circumspection.

5. In the circumstances, the orders of resumption, Annexures P/2 and P/5, as also the order Annexure P/7, by which review applicant on of the Petitioner was rejected by the Chief Commissioner, Chandigarh are hereby set aside being contrary to the objects and purposes of the Capita] of Punjab (Development and Regulation) Act, 1952. In order to ensure construction of the house by the Petitioner, the Chandigarh Administration may consider the request of the Petitioner to supply him a copy of the plan already sanctioned by the

Administration within a fortnight from the date, request for the same is received, which should be made within a week from today, or alternatively, the Petitioner may submit fresh plan for construction of the house within two weeks from today, which will be sanctioned by the Respondents according to the Rules, as expeditiously as possible, preferably within three months from its submission. The Petitioner shall start construction within a fortnight of the communication of sanction of the plan to him and shall complete the same within eight months. The Petitioner has undertaken that if he fails to perform his part of the undertaking and construction of the house is not completed within the stipulated period, then the order of resumption would become final.

6. Subject to these conditions, the writ petition stands disposed of. In the circumstances of the case, there is no order as to costs.