
(1987) 07 P&H CK 0060
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1591 of 1986

Ujagar Singh

APPELLANT

Vs

Urban Improvement Company Pvt.Ltd.

RESPONDENT

Date of Decision : 14-07-1987

Acts Referred:

Citation : (1988) 2 ILR (P&H) 294 : (1987) PLJ 542 : (1988) 2 RRR 316

Hon'ble Judges : S.P Goyal, J

Advocate : M.S. Sethi, Advocate, Advocates for appearing Parties

Judgement

S.P. Goyal, J.

1. This judgment will dispose of Civil Revision No. 1591 of 1986 and the cross petition Civil Revision No. 2377 of 1986, which have arisen out of the same order of the learned Additional District Judge.

2. Ujagar Singh filed a suit for a declaration that the defendant Company has no right to demand the additional development costs and for permanent injunction restraining the latter from cancelling the allotment and alienating the plots in dispute to any other person. Along with the suit, he also filed an application for ad interim injunction to the same effect, which was allowed by the trial Court. However, its order was modified on appeal and the plaintiff was directed to pay Re. 1/ per square yard on account of service charges and Rs. 25/ per square metre on account of external water supply, failing which the appeal was deemed to have been accepted and the ad interim order set aside. The defendant has filed the revision for enhancement of the amount required to be deposited and the plaintiff for restoration of the order of the trial Court.

3. The lower appellate Court has burdened the plaintiff with the deposit of the additional amount solely on the ground that the defendant Company has to incur heavy development charges and other expenses to comply with the provisions of the Haryana Development and Regulation of Urban Area Act, 1975 (hereinafter referred to as the 1975 Act), which appears to be wholly unwarranted. The

defendentCompany initiation got the layout plan of Greenfields Colony sanctioned from the District Local Board, Gurgaon and Zila Parishad in the year 1962. Thereafter, the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 was enforced with effect from 30th November, 1963, and the plans were duly got sanctioned by the Company under its provisions, as is evident from the letter of the defendant dated 24th November, 1967. A colony which had already been got approved under the provisions of the said Act is exempt from the application of the provisions of the 1975 Act by virtue of the provisions of Section 16, which reads as under :

Effect of other laws. Notwithstanding anything contained in the Act, any permission already granted to set up a colony under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963, and the rules made thereunder, shall remain valid and be governed by the terms and conditions contained therein. No person shall be required to obtain a licence if he had obtained permission under the said Act and the same still subsists."

Consequently, the dependent was not required to seek any exemption nor the Government competent to impose any conditions under Section 23 of the 1975 Act the Company, thus, being under no obligation to comply with the provisions of the 1975 Act would not be competent to demand additional development charges to enable it to comply with the provisions of the said Act.

4. The learned Additional District Judge has also made some observation regarding the Jaches on the part of the plaintiff, but it passes my comprehension how any such thing could be ascribed to him. The plots are to be allotted by the dependent after developing them fully and making provisions for other amenities. It is nobody's case that the stage for their allotment has yet arrived. The cause of action arose to the plaintiff on the demand of the additional charges and he immediately came to the Court for the relief. For the long delay of more than two decades, it is the defendant who is responsible, and not the plaintiff. The observations of the learned Additional District Judge regarding the delayed action on the part of the plaintiff are, therefore, wholly unjustified.

5. For the reasons recorded above, this revision is allowed and the other one dismissed with the result that the impugned order stands set aside and that of the trial Court restored but without any order as to costs.