

Balbir Singh Chaudhary Vs Haryana State

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Oct. 9, 2002

Acts Referred: Haryana Development and Regulation of Urban Areas Act, 1975 " Section 7

Citation: (2003) 133 PLR 330 : (2002) 4 RCR(Civil) 710 : (2002) 4 RCR(Criminal) 859

Hon'ble Judges: R.L. Anand, J

Bench: Single Bench

Advocate: I.K. Mehta, Ranjeet Mehta and S.C. Manav, for the Appellant; D.P. Singh, Addl. A.G., for the Respondent

Final Decision: Allowed

Judgement

R.L. Anand, J.

Balbir Singh Chaudhary, petitioner, has filed the present petition u/s 482 Cr.P.C. for quashing the FIR No. 395 dated

2.10.1996, u/s 10/75 of Haryana Development & Regulation of Urban Areas Act, 1975, registered in Police Station, Sadar, Ballabgarh with all

consequential proceedings pending in the Court of Judicial Magistrate 1st Class, Faridabad. "

2. FIR No. 395 dated 2.10.1996, u/s 10/75, of HUDA Act. was registered in Police-Station, Sadar Ballabgarh at the instance of District, Town

Planner (Enforcement) Faridabad who alleged as follows:-

That the brief facts of the case are that a letter reference No. eligible-1316 DPT (Enforcement)(F) 1309 dated 26.09.1996 was received in the

office of the Supdt of Police, Faridabad. The contents of the letter are re-produced hereunder:-

From the District Town Planner Enforcement, Faridabad to the Supdt of Police, Faridabad. Memo No.1316/DTP 9E(i)-1309 dated 26.9.1996.

Subject:- Enforcement of the Haryana Development and Regulation of Urban Areas Act, 1975 lodging of FIR.

It is brought to your notice that Shri Balbir Singh s/o Avtar Singh r/o 258 Okhla Indl. Estate Ph-III, New Delhi is the owner of land being the

Khewat No. Khatoni No. Khasra No. 44/16, 25, 45/11, 19, 20, 21, 22, 23, situated at village Sikri, District Faridabad. The total area of the

mentioned land is about 108 Kanal. He has sub-divided the land into plots for residential/industrial/commercial purposes without obtaining licence

from the Director, Town and Country Planning, Haryana as required under Section-3 of the Haryana Development and Regulation of Urban Area

Act, 1975. A Location plan of the sites is attached herewith. Out of above plots No. (5) the provisions of Clause (1) of Section -7 of said Act.

This action on the part of Sh. Balbir Singh s/o Avtar Singh constitutes an offence punishable u/s 10 of the Haryana Development and Regulation of

Urban Areas Act, 1975. The place of commission of the said offence falls within the jurisdiction of Police Station Sadar, Ballabgarh. The

registration particulars of the plots sold are given in the attached list. The offence committed as mentioned above may please be got investigated

and FIR registered. The sanction of Director, Town & Country Planning Haryana Chandigarh may please be obtained before putting the challan in

the Court as required u/s 11 of the said Act.

3. On the basis of the above allegations, challan has also been submitted against the petitioner.

4. In the present petition, it has been alleged by the petitioner Shri Balbir Singh Chaudhary that vide registered deed dated 27.3.1996, he had sold

and transferred lease hold rights in favour of M/s Wadhwa Engineering Company V-502, New Friends Colony, New Delhi. He has not divided

the land into sub-plots but had sold the entire lessee rights to the Company vide registered sale deed the copy of the which is Annexure P-1. It was

also alleged by the petitioner that whole of the area of 108 Kanals of agricultural land which was on lease with him has been transferred. Since

there is no division of the land, therefore, the provisions of Section 7 of the Act are not attracted. The complaint does not disclose any cause of

action, therefore, it should be quashed.

5. Notice of the petition was given to the respondent who filed the reply and denied the allegations.

The stand of the respondent is as follows:-

That contents of para Nos. 2 and 3 of petition are wrong and denied. It is submitted that Balbir Singh Chaudhary petitioner had only lease hold

rights in land in question measuring 108 kanals and situated in village Seekri. It is added that petitioner had constructed a factory in the above said

area and vide Regd. Sale Deed dated 27.3.1995 he sold the factory area/industrial unit to M/s Wadhwa Engineering Company, V-502, New

Friends Colony, New Delhi. In this manner he has sold factory-cum-Industrial area and not agricultural land as requested by him. The true copies

of Khasra Girdawari are a live evidence of it in which factory area has been mentioned.

That contents of para No. 7 of petition are correct and admitted to the extent that case FIR No. 395/2.10.1996 u/s 10/75 of Haryana Urban

Development & Regulation Act of P.S. Sadar Ballabgarh alongwith arisen proceedings are pending in the Court of Judicial Magistrate 1st Class,

Faridabad. It is added that a complete case had been submitted to the Ilaqa Magistrate, Faridabad, who is taking necessary legal steps in

accordance with law.

6. I have heard the learned counsel for the parties and with their assistance have gone through the record of the case.

Section 7 of the Act lays down as follows;-

Section 7 provides: Prohibition to advertise and transfer plots-Save as provided in Section 9, no person shall-

(i) without obtaining a licence u/s 3 transfer or agree to transfer in any manner plots in colony or make an advertisement or receive any amount in

respect thereof.

7. The reading of the above provision would show that the bar has been placed upon a person not to transfer in any manner the plots by carving

out a colony. The petitioner admittedly is not the owner of the plots. He has only the lessee rights which has been transferred with respect to the

land measuring 108 kanals by registered sale dated 27.3.1996 as these lessee rights were acquired by the petitioner for 99 years vide lease deed

dated 15.9.1995. As the lessee rights have been transferred alongwith the structure in one go, therefore, I am of the opinion that the offence u/s 7

of the afore said Act is not made out. Resultantly, the present petition is allowed. The FIR in question along with consequential proceedings is

hereby quashed and directions are given to the learned Magistrate not to prosecute the petitioner.