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Kehar Singh Vs The Chief Commissioner, Union Territory Chandigarh and Others

Civil Writ Petition No. 206 of 1980

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: March 5, 1991

Acts Referred:
Capital of Punjab (Development and Regulation) Act, 1952 â€" Section 8A#Constitution of India, 1950 â€" Article 226, 227

Citation: (1992) 102 PLR 329

Hon'ble Judges: R.S. Mongia, J

Bench: Single Bench

Advocate: R.K. Chopra and S.K. Dhawan, for the Appellant; Anand Swaroop and Rajiv Vij, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

R.S. Mongia, J.
Vide allotment letter dated 27th November, 1957, the petitioner was allotted Plot No. 47, Sector 20-A, Chandigarh, by

the Chandigarh Administration. According to the petitioner, he had, got a plan sanctioned for completing a 2 1/2 storeyed house on the said plot.

However, the entire 2\ storey could not be completed by the petitioner within the initial stipulated period and consequently vide order dated 26th

May, 1970 (Annexure P-1) the Estate Officer, Chandigarh, resumed the site in question and forfeited 10% of the money paid in respect thereof.

2. The petitioner filed appeal against the above-said order of the Estate Officer before the Chief Administrator, Chandigarh, and he was given

opportunity to obtain the completion certificate after all the formalities had been fulfilled within a period of three months of the order which was

passed on 5th July, 1971. It is not necessary to go into further details of the matter. The fact is that the petitioner could not complete the

construction of the entire house, and ultimately vide order dated 13th July, 1977 (Annexure P~5), the Chief Commissioner, Chandigarh, passed an

order, whereby the site in question that he would complete the building according to the sanctioned plan and obtain occupation certificate by 14th

October, 1977.

3. It is the case of the petitioner that well before the extended date, i. e. 14th October, 1977, he had completed the entire building and had applied

for the occupation certificate However, according to the petitioner, the Sub-Divisional Officer (Building) told the petitioner that since it will take

some time before the occupation certificate could be issued, he would be well advised to obtain further ex- tension from the Chief Commissioner.

It may be observed here that no order was passed after 14th October, 1977 by the Authorities. In the order dated 13th July, 1977, the Chief

Commissioner had observed that the Building Inspector had stated that during his inspection of the site on 12th July, 1978, he found the ground

floor of the building complete except flooring in front and back courtyard ; first floor and Barsati floor were upto roof slab and structurally

complete. The ground floor was found locked. In the written statement filed on behalf of the respondents, it has been denied that any application

was made by the petitioner for getting occupation certificate.

4. The petitioner had applied for further examination by a review application to the Chief Commissioner on the ground that though he had

submitted an application for occupation certificate much prior to 14th October,: 1987, yet he had not been issued the occupation certificate. This

application for extension of time was filed in the year 1977 itself as it has been numbered as 127 of 1977. This was rejected on 22nd June, 1979,

on the ground that no further review application was maintainable against the order of the Chief Commissioner, dated 13th July, 1977.

5. The learned counsel for the petitioner argued that in the year 1977 itself he had approached the Authorities for further extension of time because

though he had completed the building within the extended period i.e. 14th October, 1977 but occupation certificate had not been issued. No

efforts were made by the Authorities to find out whether the building was actually complete or not. Otherwise also, he submitted that it is admitted

case that at least 1 1/2 storey of the building was complete even prior to the order dated 13th July, 1977 and he could have obtained the

occupation certificate by just submitting the revised plan.

6. I find force in the arguments of the learned counsel for the petitioner. The whole idea of the Capital of Punjab (Development and Regulation)

Act, 1952, is that the Chandigarh town should have developed within a stipulated time. Even if the petitioner had completed 1 1/2 storey within the

extended period, there was no justification to resume the site, inasmuch as even for 1 1/2 storey the revised plan could have been submitted. If for

one reason or the other, the petitioner could not complete the entire building i.e. 2 1/2 storey which was the original plan, that would be no ground

to resume the site in questions, if on the date of resumption the portition of building which had already been constructed fulfilled the requirement of

law to the effect that some building must be constructed on the site within a stipulated period. In other words, supposing a person had g6t

sanctioned a plan for a double storey house but he completes only one storey and can get occupation certificate just by submitting revised plan for

the single storey ; in that eventuality the site should not be resumed There is no denial that on the date of the filing of the writ petition, the entire

building was complete. The writ petition was filed in the year 1980 and the petitioner''s dispossession was stayed.

7. For the reasons recorded above, this petition is allowed, the order of resumption of the site in question is hereby quashed. The respondents are

directed to take appropriate steps expeditiously to issue occupation certificate to the petitioner if it has already been not issued so far. There will be

no order as to costs.