

(2001) 08 P&H CK 0209

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular Second Appeal No. 1986 of 2001 (O and M)

Jawahar Colony, Residents
Welfare Association

APPELLANT

Vs

Municipal Corporation,
Faridabad

RESPONDENT

Date of Decision: Aug. 2, 2001

Citation: (2001) 4 RCR(Civil) 587

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

Bench: Single Bench

Advocate: Gurinder Jit Singh, for the Appellant;

Final Decision: Dismissed

Judgement

R.L. Anand, J.

There is delay of 425 days in re-filing the appeal, which is hereby condoned.

2. On merits, I have heard the learned counsel for the appellant and with his assistance, have gone through the record of this case. The plaintiff has been nonsuited for the reasons given by the first Appellate Court in paragraphs 17 to 20 which are reproduced hereunder :

"17. From the aforesaid evidence, it is thus obvious that originally vide letter No. 8431-ICI-75/38475 dated 24.11.1975 (Exhibit D-2) Jawahar Colony, which was till that time unapproved was regularised and the government directed the respondent to realise 50% of the expenses incurred on civil amenities from the plot holders of the said colony. At that time, however, the area of this colony was got demarcated. It is not disputed between the parties that 50% of the expenses incurred on civil amenities at that time came to Rs. 11.40 per sq. yard and that being the position, the residents of Jawhar Colony, Faridabad were asked to pay development charges @ Rs. 11.40 per sq. yard.

18. However, now the appellant has attempted to cause some confusion because with the passage of time, there was extension in Jawahar Colony and the said extended area was also subsequently approved vide reference No. FCA/STP/94/683 dated 11.4.1994, a copy of which is EX.D-5. A perusal of this letter shows that there was regularisation of extension of Jawahar Colony and it was ordered that development fee @ Rs. 60/- per sq. yard was to be charged from the residents of this area which is also known by the name of Parva-tiya Mohalla or colony. Demarcation of this area is given by Khasra Nos. detailed in Exhibit D-3.

19. It is thus clear that all the residents of Jawahar Colony extension/Parvatiya Mohalla, whose plots were comprised in the various Khasranum-bers given in Ex.D.3, are liable to pay development charges @ Rs. 60/- per sq. yard and otherwise, the residents of the erstwhile Jawahar Colony are liable to pay development charges @ Rs. 11.40 per sq. yard.

20. There is no force in the plea of the appellant's counsel that the respondent has wrongly separated a part of Jawahar Colony by describing it as its extension. Appellants have not led any evidence that the respondent was demanding enhanced rate of development charges even from those residents of Jawahar Colony whose plots were not comprised in khasra numbers mentioned in Ex.D-3. Despite this fact having been made clear in the written statement by the respondent, the appellant did not cite any example for demonstrating that the enhanced rates of development charges were being claimed by the respondent even from those residents of Jawahar Colony whose plots were not comprised in the Khasra number detailed in Exhibit D-3."

3."The learned counsel for the appellant has tried to show that Jawahar Colony and Paryatiya Mo-halla/Colony are separate colonies and in these circumstances, the development charges being charge by the respondent at the rate of Rs. 60/- per sq. yard cannot be charged from the residents of the Jawahar Colony. The argument is not acceptable to the Court for the reasons already given by the first Appellate Court in the afore-quoted paras. Dismissed.

4. Appeal dismissed.