

(2014) 12 P&H CK 0038

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 12630 of 2014

Tek Chand Arora

APPELLANT

Vs

Punjab and Haryana
High Court and
Others

RESPONDENT

Date of Decision: Dec. 3, 2014

Citation: (2015) 178 PLR 425

Hon'ble Judges: Hemant Gupta, J ; Hari Pal Verma, J

Bench: Division Bench

Advocate: N.P. Mittal, Advocate for the Appellant; Gaurav Chopra, Advocate for the Respondent;

Final Decision: Allowed

Judgement

Hemant Gupta, J.

1. The challenge in the present writ petition is to the communication dated 04.12.2012, the administrative order passed by this Court to the effect that no construction on the land adjoining the Sessions House is to be raised without compromising the security of the Sessions House. The petitioner is an auction purchaser of a residential plot measuring 200 square yards in an auction conducted on 30.11.2006. The letter of allotment was issued on 22.1.2007. The symbolic possession of the plot was given to the petitioner on 26.2.2007 but when the petitioner submitted maps for construction of the building, then he was informed that the construction is not permitted in view of the communication of this Court dated 04.12.2012. It is also pointed out that the construction was stayed in pursuance of the communication of the learned District & Sessions Judge in respect of the auction, which was conducted on 14.3.2013 in view of the earlier communication from this Court. The petitioner has also averred that the construction is upto the DPC level in plot No. 16 and 17 and booth No. 14 in the same locality of which the petitioner is the allottee but again, the learned District &

Sessions Judge communicated that construction on any wall adjoining the boundary wall of the Sessions House, Faridkot is a great threat to the security of Sessions House and, therefore, construction could not be carried out. In view of the said communication, the petitioner sought refund of the amount deposited along with 18% interest by way of CWP No. 1617 of 2014 but subsequently filed the present writ petition seeking quashing of the direction to restrain the construction over the plot purchased by the petitioner.

2. On behalf of respondents No. 1 and 2, the stand is that the plots adjoining the Sessions House had almost almost at the level of the boundary wall of the Sessions House and boundary wall of the Sessions House can be trespassed by any person and this is the security threat to the Sessions House. Subsequently, in the site plan, which is attached as Annexure R1/5, it has been decided to construct new Sessions House at place Mark "C" after demolishing the present Sessions House and the total area of the Sessions House is approximately seven acres. It is also pointed out that the portion Mark-C is not at much distance from the disputed plot. Therefore, any construction would be a security threat to the Sessions House. Mr. Ghuman, learned counsel appearing for the Punjab Urban Development Authority states that the petitioner has been called upon to take possession of the plot in question vide letter dated 17.7.2014.

3. We have heard learned counsel for the parties and find that the petitioner is a purchaser of the plot in an open auction way back in the year 2006. The construction of new Sessions House is yet to begin as it is still at the part of planning stage. The area purchased by the petitioner is 200 square yards, whereas the area of the Sessions House is seven acres. If the security threat so grave then construction cannot be planned in such area. It is open to the respondents to plan the construction in such an area so as to protect Sessions House from any pursuable threat. If it is not possible, it is open to the State or the High Court to re-locate the Session House to some other place as it consider appropriate but the rights of the petitioner, who is a purchaser of a plot in an open auction cannot be prejudiced on the basis of perceived security threat. In view of the said facts, the letter dated 4.12.2012 (Annexure P-5) is quashed. Since the petitioner could not raise construction for no fault, the petitioner shall not be charged extended fee if he complete the constructions within eighteen months.