

Supreme Court of India

Raghubir Singh And Chatter Singh vs Union Territory Of Chandigarh And ... on 14 January, 1993

Equivalent citations: AIR 1993 SC 1943, 1993 Supp (3) SCC 675

Bench: P Sawant, N Venkatachala

JUDGMENT

1. Leave granted.

Since a common point both of fact and law is involved in these appeals, they are all disposed of by this common Order.

2. Unfortunately, there is no appearance on behalf of the respondents. We have, therefore, gone through the record of the case with the assistance of the learned Counsel for the appellants. The undisputed facts which emerge are as follows:

In all these cases, the appellant-landlords had got their building plans sanctioned in 1970-71 according to Rule 25 of the Capital of Punjab (Development and Regulation) Building Rules, 1952 (Rules), as it stood then. The height of the building was not to exceed 57.7feet. The plans sanctioned were for buildings with a ground and three floors and a mezzanine floor above the ground floor which was to cover only a part of the total floor space available. It appears that during the construction of the buildings in question, Rs.25 of the Rules was amended on 21st December, 1970 permitting the height of the floor to be reduced at 9 feet. Taking advantage of this amendment, the appellants extended the floor area of the mezzanine floor to the entire floor space available, thus converting the mezzanine floor into another regular floor. However, for such conversion of the mezzanine floor, they did not resubmit their plan and get the sanction from the authorities.

3. The construction of the buildings was thus made in contravention of the sanctioned plan. Notices were issued to all the appellants by the Estate Officer under Section 9 of the Capital of Punjab (Development and Regulation) Act, 1952. The Estate Officer in all these cases, Ordered resumption of the site and also forfeiture of the amount of price paid for the same. Against the said decision, the appellants approached the appellate authority, namely, the Chief Administrator, who in lieu of the forfeiture and resumption, levied a penalty as and by way of compensation, for the breach. Against the appellate Order, the appellants approached the revisional authority, namely, the Chief Commissioner who, taking into consideration the circumstances in which the breach was made, reduced the amount of compensation by various sums in each case. Still, aggrieved by this decision, the present appeals have been filed.

4. On the facts as narrated above, we are of the view that the breach was of a technical nature. It is not disputed that while the buildings were under construction, Rule 25 of the Rules was amended permitting the floor height to be reduced to 9 feet. There is further no dispute that the appellants have not exceeded the maximum height of the building. Taking advantage of the amended Rule 25, they had only extended the area of the mezzanine floor to match the area of the other floors. In other words, the mezzanine floor was converted into yet another floor. The default on the part of the appellants was that the conversion was not made by resubmitting the plans and getting it

sanctioned. It is not suggested that as the Rules stood then, the authorities could have withheld the sanction for such conversion. This is also acknowledged by the revisional authority. However, he has rightly pointed out that the appellants without changing their plan should not have ventured the extension of the mezzanine floor. To that extent, he is undoubtedly right. However, we find that the breach being technical, the amount of compensation which is directed to be paid by the appellants is on a high side and they do deserve some relief in that behalf. We find that the compensation charged by the revisional authority comes approximately to Rs.45 per sq. ft. of the excess area of the mezzanine floor. In each case. We feel that in the circumstances of the case, Rs.20/- per sq. ft. of the excess area will be an adequate compensation to meet the ends of justice. Accordingly, we reduce the compensation to Rs.20/- per sq. ft. of the excess area of the mezzanine floor.

5. From the table which has been prepared and handed over to us in each case, the excess area is as follows:

in SLP No. 8954/79 1418 Sq. ft.

in SLP No. 8955/79 1540 Sq. ft.

in SLP No. 8671/79 1936 Sq. ft.

in SLP No. 6421 / 80 1371 Sq. ft.

in SLP No. 2989/82 1672 Sq. ft.

6. The appellants in all these cases will pay to the respondent-authority compensation calculated at the rate of Rs 20/- per sq. ft. within six weeks from today failing which they will pay interest, on the total amount of compensation payable by them, at the rate of 18% per annum from the expiry of the date fixed for payment till payment. The amount of compensation will be a charge on the sites and the buildings in question, and the Authority will be entitled to sell the sites and the buildings for the purpose of recovering the compensation with interest then due as the decretal amount.

7. The appeals are allowed accordingly and the judgment of the High Court is set aside. In the circumstances of the case, there will be no Order as to costs.