

Chandigarh Administrator & Ors. & Etc. Etc.

v.

Manjit Kumar Gulati & Ors. & Etc. Etc.

(Civil Appeal No(s). 14151-14152 of 2024)

10 December 2024

[Bela M. Trivedi* and Satish Chandra Sharma, JJ.]

Issue for Consideration

The respondents-allotees had failed to clear the outstanding dues of the allotted booth site, despite sufficient opportunities of hearing given to the allottees to clear the said outstanding dues. Whether the High Court committed error in restoring the allotment and directing them to pay the outstanding amount.

Headnotes[†]

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 – Chandigarh Lease Hold of Sites and Building Rules, 1973 – Appellants sold the Booth site to the respondents – The allotment letter was issued to the respondents-allotees on payment of 25% of the premium amount of the auctioned site – The balance 75% of the cost of the auctioned site was to be paid by the respondents – Respondents defaulted – As a result thereof, lease of the respondents was cancelled by the concerned statutory authorities – However, the High Court restored the plot allotted to the allottee and respondents herein were directed to pay the outstanding amount – Correctness:

Held: In the instant case, despite sufficient opportunities of hearing given to the allottees to clear the outstanding dues, the respondents-allotees had failed to clear the same – The High Court had committed gross error in allowing the writ petitions by holding that the tenant-MM, was not served with the notice of resumption with regard to the plot in question – Admittedly, there was no document whatsoever produced by the said alleged tenant to show that it was the tenant of the original allottees – When the original allottees themselves had failed to comply with the conditions of auction sale, and when the allotment itself made in

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favour of the said allottees was cancelled by the Statutory Authority after following the due process of law, i.e., by issuing show cause notice before cancellation of allotment, and when number of opportunities of hearing were given to the allottees to clear the outstanding dues, there was no question of serving any notice to the so called tenant, especially, when there was nothing on record to suggest that MM was the tenant of the original allottees – The litigation carried forward by the said alleged tenant is nothing but a proxy litigation on behalf of the original allottees, who were the defaulters and an abuse of process of law – In that view of the matter, the impugned order passed by the High Court being erroneous is set aside. [Paras 11, 12]

Case Law Cited

Brij Mohan v. Chief Administrator and Others, AIR 1980 P&H 236 – referred to.

List of Acts

Public Premises (Eviction of Unauthorised Occupants) Act, 1971; Chandigarh Lease Hold of Sites and Building Rules, 1973.

List of Keywords

Allotment of booth site; Sufficient opportunity of hearing; Outstanding amount; Tenant; Conditions of auction; Due process of law; Proxy litigation.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No(s). 14151-14152 of 2024

From the Judgment and Order dated 14.01.2015 of the High Court of Punjab & Haryana at Chandigarh in CWP Nos .6866 and 8467 of 1999

Appearances for Parties

Varun Chugh, Shreekant Neelappa Terdal, Advs. for the Appellants.

Neeraj Kumar Jain, Sr. Adv., Umang Shankar, Advs. for the Respondents.

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Judgment / Order of the Supreme Court

Judgment

Bela M. Trivedi, J.

1. Leave granted.
2. Both the Appeals arise out of the common impugned Order dated 14.01.2015 passed by the High Court of Punjab and Haryana at Chandigarh in C.W.P. No.6866 of 1999 & C.W.P. No.8467 of 1999, whereby the High Court has allowed both the writ petitions. The operative part of the impugned order reads as under: -

“Accordingly, both the writ petitions are allowed and the order of resumption of the plot in question (Annexure P4) is quashed and the plot allotted to the allottee is ordered to be restored to him. Resultantly, order dated 6.10.1998 (Annexure P2) passed in appeal, order dated 15.4.1999 (Annexure P3) passed in revision under the 1973 Rules as well as order dated 14.5.199 (Annexure P5) passed in appeal under the Public Premises Act are also quashed.

Further, we direct the respondents to calculate and communicate the outstanding amount, requiring the petitioner to deposit the amount in question. The respondents shall also communicate the formalities, if any, required to be completed by the petitioners within one month from today. On issuance of such letter, the petitioner shall deposit the amount claimed and shall complete the formalities, if any, within three months thereafter. In case the petitioner fails to make payment within the time granted, the order of resumption shall be revived.

It is further made clear that the petitioner shall be entitled to get the amount deposited by him towards outstanding payments adjusted or he may recover the same by any other mode from the allottee/landlord.”

3. This Court vide the order dated 21.01.2016 while issuing notices in the SLPs had stayed the operation of the impugned judgment and order passed by the High Court.

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4. The short facts giving rise to the present appeals are that: -

- (i) The appellants sold the Booth site No. 14, Sector 46-C, Chandigarh admeasuring 25.09 sq. yds. to the respondents – Manjit Kumar Gulati and Ors. (hereinafter referred to as “the allottees”) in an open auction on 99 years leasehold basis on 12.02.1989. The allotment letter was issued to the allottees on payment of 25% of the premium amount of the auctioned site on 31.05.1989. The balance 75% of the cost of the auctioned site was to be paid by the allottees in three equal annual installments alongwith the interest thereon. The first installment due was to be paid by the allottees on 12.02.1990. However, they failed to do so and, therefore, a show cause notice dated 14.09.1990 was issued to them under Rule 12 (3) of the Chandigarh Lease Hold of Sites and Building Rules, 1973 (hereinafter referred to as the “Rules of 1973”). Thereafter, number of times, opportunities were granted to the said allottees for personal hearing, and make payment however, they failed to appear before the concerned authorities. As a result thereof, the Assistant Estate Office cancelled the lease of the said respondents – allottees vide the order dated 20.11.1991.
- (ii) The allottees being aggrieved by the same, preferred an appeal before the Chief Administrator, Chandigarh, who, vide order dated 12.10.1992 disposed of the said appeal by directing the respondents – allottees to pay the entire amount of premium with interest thereon, the amount of penalties etc. within 15 days. It was further directed that if the respondents – allottees complied with the said order, the site would stand restored to them, otherwise, the order of Estate Officer shall stand operative and the lease of the site shall stand cancelled.
- (iii) The respondents – allottees, i.e., Manjit Kumar Gulati and Ors. challenged the order dated 12.10.1992 passed by the Chief Administrator, Chandigarh before the Advisor, Chandigarh on 07.04.1999 by filing a petition being No.26 of 1999, which came to be dismissed by the Advisor, Chandigarh vide the order dated 07.04.1999.
- (iv) The alleged tenant – M/s. Mohit Medicos, also filed an appeal before the Chief Administrator challenging the order dated 20.11.1991 passed by the Assistant Estate Office, which

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came to be dismissed on 06.10.1998. The said tenant also filed a petition being No.63 of 1998 before the Advisor, Chandigarh, which came to be dismissed vide the order dated 15.04.1999.

- (v) The allottees – Manjit Kumar Gulati and Ors. filed writ petition being C.W.P. No.6866 of 1999 and the alleged tenant – M/s. Mohit Medicos filed separate writ petition being C.W.P. No.8467 of 1999, challenging the orders passed by the Authorities of the appellants, and seeking restoration of the site in question.
 - (vi) Both the writ petitions having been allowed by the High Court vide the common impugned order as stated hereinabove, the appellants have preferred the instant Appeals.
5. It may be noted that the respondents – allottees – Manjit Kumar Gulati and Ors. have chosen to remain absent before this Court, though duly served with the notices, as per the Office Report dated 26.11.2024.
6. We have heard learned counsel, Mr. Varun Chugh appearing for the appellants in Civil Appeals arising out of SLP (C) Nos.2283-2284 of 2016 and Mr. Neeraj Kumar Jain, learned senior counsel appearing for the respondent(s) – alleged tenant – M/s. Mohit Medicos in Civil Appeal arising out of SLP (C) No.2284 of 2016.
7. It is sought to be submitted by the learned counsel appearing for the appellants that since the allottees had failed to make payment of the remaining 75% of the premium amount as per the terms and conditions of the auction sale, the lease of the auction site was cancelled by the Assistant Estate Office, after giving sufficient opportunities to the allottees to clear the outstanding dues, and the said order was confirmed by the Chief Administrator. The revision petition filed by the allottees was also dismissed by the Advisor, Chandigarh on the ground of gross delay. Hence, according to him, the High Court, in exercise of its jurisdiction under Article 226, should not have interfered with the said orders passed by the statutory authorities.
8. He further submitted that the respondent(s) – M/s. Mohit Medicos alleging to be the tenant is the proxy litigant and had no locus standi to file the writ petition before the High Court, more particularly, when the said respondents had failed to produce any document to show any lease agreement between the original allottees and the said respondent(s) - tenant.

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9. However, the learned senior counsel appearing for the respondent(s) – alleged tenant M/s. Mohit Medicos, placing reliance on the decision of Punjab and Haryana High Court, rendered by the Full Bench in ***Brij Mohan Vs. Chief Administrator and others***,¹ submitted that the expression “transferee” contained in clause (k) of Section 2 of the Capital of Punjab (Development and Regulation) Act, 1952 included the “lessee”, and therefore the respondent(s) – M/s. Mohit Medicos had the locus standi to file the writ petition before the High Court challenging the orders passed by the statutory authorities, as well as the order passed in the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the “Public Premises Act”). He fairly submitted that the said respondent(s) had not produced on record any document to show that that M/s. Mohit Medicos was the tenant of the allottees – Manjit Kumar Gulati and Ors.
10. At the outset, it may be noted that undisputedly the original allotment made in favour of the allottees – Manjit Kumar Gulati and Ors. was cancelled by the Assistant Estate Office vide the order dated 20.11.1991 after affording sufficient opportunity of hearing to the allottees by issuing show cause notice dated 14.09.1990, however, the allottees had failed to clear the outstanding dues. In the appeal preferred by the said allottees, the Chief Administrator, Chandigarh, considering the submission made by the learned counsel for the allottees, had given the allottees last opportunity to liquidate their liability and retain the lease of the site in question by paying the entire amount of premium with interest etc., within 15 days from the date of the passing of the order dated 12.10.1992. The respondents-allottees instead of complying with the said order preferred a petition before the Advisor to the Administrator U.T., Chandigarh after a delay of about 5 and half years, which also came to be dismissed by the Advisor, vide order 07.04.1999 on the ground of being time barred.
11. Similar challenge made by the so-called tenant of the said allottees i.e., M/s. Mohit Medicos also came to be dismissed by the Advisor. Under the circumstances, despite sufficient opportunities of hearing given to the allottees to clear the outstanding dues, the respondents – allottees had failed to clear the same. Hence, the High Court had committed gross error in allowing the writ petitions by holding that

¹ AIR 1980 P&H 236

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the tenant, i.e., M/s. Mohit Medicos was not served with the notice of resumption with regard to the plot in question. Admittedly, there was no document whatsoever produced by the said alleged tenant to show that it was the tenant of the original allottees - Manjit Kumar Gulati and Ors. When the original allottees themselves had failed to comply with the conditions of auction sale, and when the allotment itself made in favour of the said allottees was cancelled by the Statutory Authority after following the due process of law, i.e., by issuing show cause notice before cancellation of allotment, and when number of opportunities of hearing were given to the allottees to clear the outstanding dues, there was no question of serving any notice to the so called tenant, M/s. Mohit Medicos, especially when there was nothing on record to suggest that M/s. Mohit Medicos was the tenant of the original allottees - Manjit Kumar Gulati and Ors. The High Court had completely lost sight of the said factual aspects of the matter while allowing the writ petitions filed by the respondents – allottees and the so called tenant – M/s. Mohit Medicos. The decision of FULL Bench of Punjab and Haryana High Court relied upon by the learned senior counsel for the respondent(s) - tenant has no application to the facts of the present case, inasmuch as the respondent(s) – M/s. Mohit Medicos, by no stretch of imagination could be said to be a tenant of the original allottees, in absence of any material placed on record, to substantiate the same. The litigation carried forward by the said alleged tenant is nothing but a proxy litigation on behalf of the original allottees, who were the defaulters and an abuse of process of law.

12. In that view of the matter, the impugned order passed by the High Court being erroneous is set aside. The Appeals are allowed accordingly.

Result of the case: Appeals allowed.

[†]Headnotes prepared by: Ankit Gyan