



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-22372-2025 (O&M)
Date of Decision: 23.09.2025

SAMARTH RAJ MEHTA ADVOCATE AND ANOTHER

.....Petitioners

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Petitioner No.1-Samarth Raj Mehta, Advocate in person.

Mr. A.S. Khara, Sr. DAG, Punjab.

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ANUPINDER SINGH GREWAL, J. (Oral)

The petitioners have challenged writ *inter alia*, the vires of Sections 44(2) of the Punjab Apartment & Property Regulation Act, 1995 (hereinafter referred to as 'the Act') and the notifications dated 11.08.2006 (Annexure P-10) and 22.12.2006 (Annexure P-15).

2. Petitioner No.1, who appears in person, submits that Section 44(2) of the Act is manifestly arbitrary and unconstitutional as it is perpetual/permanent in nature and provides for excessive delegation of powers without any sunset clause.

3. Learned State counsel submits that the instant writ petition is barred by *res-judicata* as similar issues had already been raised by the petitioners by preferring earlier writ petition, which stands dismissed.

4. Heard.

5. The petitioners have challenged the vires of Section 44(2) of the



Act and the notifications dated 11.08.2006 (Annexure P-10) and 22.12.2006 (Annexure P-15). A careful perusal of the petition indicates that the petitioners had earlier preferred a petition bearing CWP-13248-2007, wherein a similar prayer challenging the vires of Section 44(2) of the Act was raised. The relevant extract of the prayer clause of the aforesaid petition is reproduced hereunder:

“Civil Writ Petition Under Articles 226 And 227 of the Constitution Of India For the issuance of a writ in the nature of certiorari and mandamus, challenging interalia, exemption granted u/s 44 (2) of Papra Act to respondent no. 3, by respondent no. 1 & 2 and validity of Act of respondent no. 3, to enhance rate of per sq. Yard from. 10,000/- to rs.11,500/- and also accepting transfer charges @ 250/- per sq. charges from applicants who bought priorities from grey market also in demanding 30% of basic sale price at time of advance registration money and act of respondent no. 3 to change basis of allotment from "first come first serve basis" to "random basis" and also act of company to allot plots, without supervision of "PUDA" and without buyers and to allot plots in sec. 108 & 109 instead of sec. 105 of Mohali and to allot plots in sector 109 to petitioners and to allot plots in sector 108 & 109 amounted to "pre-as per launch" which is prohibited "established law and all act and omission of respondent no. 3 in name of exemption granted under Papra Act and all Act of respondent no. 1 & 2 to encourage wrong doing of respondent no. 3 interalia on ground that such above mentioned acts of omission is violative of section of 44 (2) of Papra Act and also violative of Article 14 of Constitution as it treats two similarly situated persons, unequally thereby discriminating and fully infringing rights of petitioners, said act of respondents are wholly illegal arbitrary, malafide and respondent be restrained from proceeding to make allotment of plots for Mohali hills projects company and PUDA should be directed and be restrained from changing basis of allotment from first come and first served basis to random basis of allotment and company be further directed to conduct allotment afresh under supervision of PUDA and public.”



6. The said writ petition along with several other writ petitions had been dismissed by the Co-ordinate Bench of this Court on 15.09.2014 (Annexure P-29) and it was observed that those writ petitions were ‘an abuse of process of law’ and ‘wastage of public time’. Costs of Rs.25,000/- were accordingly imposed in each of the writ petitions. The operative part of the judgment dated 15.09.2014 is reproduced hereunder:

“Insisting upon the present writ petitions in the face of the order passed by the Division Bench is an abuse of process of law and is wastage of public time. Consequently, all the writ petitions are dismissed with costs of Rs.25,000/- in each case. Costs shall be paid within one month to Punjab State Legal Services Authority failing which the petitioners shall be liable to be proceeded against for contempt of Court.”

7. The petitioners had challenged the said judgment by preferring SLP (C) No.22840 of 2015 before the Supreme Court, which was dismissed, vide order dated 23.08.2017 (Annexure P-33). The relevant extract of the order passed by the Supreme Court is reproduced hereunder:

“No case for interference with the impugned judgment is made out. Accordingly, the special leave to petitions are dismissed.”

8. The petitioners thereafter preferred a review petition against the order dated 23.08.2017, which was also dismissed by the Supreme Court, vide order dated 20.03.2018 (Annexure P-36). The relevant extract of the same is reproduced hereunder:

“We have perused the review petitions and record of the special leave petitions and are convinced that the order of which review has been sought does not suffer from any error apparent warranting its reconsideration. The review petitions are, accordingly dismissed.”

9. Subsequently, a curative petition was also filed by the



petitioners before the Supreme Court, which was dismissed by the Supreme Court, vide order dated 04.09.2019 (Annexure P-38) by passing the following order:

“Having gone through the Curative Petitions and the relevant documents, in our considered opinion, no case is made out within the parameters indicated in the decision of this Court in Rupa Ashok Hurra Vs. Ashok Hurra & Anr., reported in 2002(4) SCC 388. The Curative Petitions are, accordingly, dismissed.”

10. Thereafter, in the year 2022, the petitioners had also preferred a petition bearing Writ Petition (Civil) No.31650 of 2021 before the Supreme Court, which was dismissed as withdrawn on 13.04.2023 (Annexure P-39).

11. It is manifest that the petitioners had earlier preferred several writ petitions on a similar cause of action, which were dismissed by this Court and eventually by the Supreme Court. The matter has attained finality and it is not open to the petitioners to file another petition on the same cause of action. Furthermore, it was open to the petitioners to have agitated the other issues in their earlier writ petitions and they cannot by successive petitions seek to agitate new grounds every time. Reference may be made to the judgment of the Supreme Court in the case of ***Devilal Modi Vs. The State of Uttar Pradesh, 1962 (1) SCR 574***. Relevant extract of the same is reproduced hereinbelow:

“8. There can be no doubt that the fundamental rights guaranteed to the citizens are a significant feature of our Constitution and the High Courts under Art. 226 are bound to protect these fundamental rights. There can also be no doubt that if a case is made out for the exercise of its jurisdiction under Art. 226 in support of a citizen's fundamental rights, the High Court will not hesitate to exercise that jurisdiction. But the question as to whether a citizen should be allowed to challenge the validity of the same order by successive petitions under Art. 226, cannot be answered merely in the light of



the significance and importance of the citizens' fundamental rights. The general principle underlying the doctrine of res judicata is ultimately based on considerations of public policy. One important consideration of public policy is that the decisions pronounced by courts of competent jurisdiction should be final, unless they are modified or reversed by appellate authorities; and the other principle is that no one should be made to face the same kind of litigation twice over, because such a process would be contrary to considerations of fair play and justice, vide : Daryao and Others v. The State of U.P. & Others.

9. It may be conceded in favour of Mr. Trivedi that the rule of constructive res judicata which is pleaded against him in the present appeal is in a sense a somewhat technical or artificial rule prescribed by the Code of Civil Procedure. This rule postulates that if a plea could have been taken by a party in a proceeding between him and his opponent, he would not be permitted to take that plea against the same party in a subsequent proceeding which is based on the same cause of action; but basically, even this view is founded on the same considerations of public policy, because if the doctrine of constructive res judicata is not applied to writ proceedings, it would be open to the party to take one proceeding after another and urge new grounds every time; and that plainly is inconsistent with considerations of public policy to which we have just referred.

13. The present proceedings illustrate how a citizen who has been ordered to pay a tax can postpone the payment of the tax by prolonging legal proceedings interminably. We have already seen that in the present case the appellant sought to raise additional points when he brought his appeal before this Court by special leave; that is to say, he did not take all the points in the Writ petition and thought of taking new points in appeal. When leave was refused to him by this Court to take those points in appeal, he filed a new petition in the High Court and took those points, and finding that the High Court had decided against him on the merits of those points, he has come to this Court; but that is not all. At the hearing of this appeal, he has filed another petition asking for leave from this Court to take some more additional points and that shows that if constructive res judicata is not applied to such proceedings a party can file as many writ petitions as he likes and take one or two points every time. That' clearly is opposed to considerations of public policy on which res judicata is based and would mean harassment and hardship to the opponent. Besides, if such a course is allowed to be adopted, the doctrine of finality of judgments pronounced by this Court would also be materially affected. We are, therefore, satisfied that the second writ petition filed by the appellant in the present case is barred by constructive res judicata.”

(emphasis supplied)

We have no hesitation to hold that the instant petition is barred



by the principle of *res judicata* and is a blatant abuse of judicial process. It would be pertinent to mention here that another writ preferred by the petitioner bearing CWP-27480-2025 on similar grounds, has been dismissed by this Court on 15.09.2025.

12. We may refer to the judgment of the Supreme Court in the case of ***Pandurang Vithal Kevne Vs. Bharat Sanchar Nigam Limited (BNSL) and another, SLP (Civil) Diary No.56230 of 2024, decided on 20.12.2024,*** wherein noticing the multiple petitions filed by the petitioner therein had emphasized the need to deter frivolous petitions, by imposing costs on the litigating parties. The relevant extract of the judgment is reproduced hereunder:

“2. This Special Leave Petition before us is yet another stark example of the blatant misuse and abuse of the judicial process. The petitioner, seemingly blinded by his own sense of grievance, has embarked on a relentless and frivolous litigation spree, dragging this I High Court of Bombay, Maharashtra Court and the High Court through multiple meritless review petitions, appeals, and motions, all stemming from his well-reasoned removal from service. This is one of the reasons which results in choking the dockets in courts.

3. Before delving into the specifics of this case, it is imperative to underscore that the right to access the courts is a cornerstone of our democracy. However, this right is not absolute and must be exercised responsibly. When litigants, like the petitioner before us, engage in forum shopping, file repetitive and meritless pleas, and deliberately delay proceedings, they erode the very foundation of our legal system.

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22. Considering that precious time of this Court and the High Court was wasted by the petitioner, in our opinion the petitioner deserves to be burdened with heavy cost, to give clear message to the unscrupulous litigants like the petitioner for not daring to play with the Judicial System. Such type of litigants are not only polluting the stream of justice but putting hurdles in its dispensation to others. The precious judicial time which the petitioner has wasted, could very well be used for taking up the cases of other litigants who are



waiting for justice. In fact these types of litigants are choking the system of the court, which is resulting in delays in decision of other cases. It is also the duty of the Courts at different levels to curb such type of litigation so that more time is available for dealing with genuine litigation.

23. In the light of facts and circumstances as aforesaid, we are inclined to impose a cost of ₹ 1,00,000 /- (Rupees One Lakh) against the petitioner to be deposited with the Maharashtra State Legal Services Authority within four weeks. On failure, recovery be effected from the petitioner as arrears of land revenue.”

13. Consequently, this petition is dismissed with costs of Rs.50,000/- to be deposited by the petitioners with the Punjab State Legal Services Authority Disaster Relief Fund, Account No.44426937384, IFSC Code SBIN0014656, Branch Name Sector 68, SAS Nagar Mohali, within a period of six weeks.

14. All pending miscellaneous application(s) also stand disposed of.

**(ANUPINDER SINGH GREWAL)
JUDGE**

**(DEEPAK MANCHANDA)
JUDGE**

23.09.2025

Sapna

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No