

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCP-2246-2017 (O&M)
Date of decision: 17.01.2023

Palm Enclave Resident Welfare Society

...Petitioner

Versus

J.K. Jain and ors.

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Dr. Naresh Kaushik, Advocate
for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

Mr. Rupinder Khosla, Sr. Advocate with
Mr. Aman Sharma, Advocate
for respondents No.3 to 6.

ARVIND SINGH SANGWAN, J.

The petitioner alleges violation of the order dated 01.02.2017,
which reads as under: -

“The Deputy Director, Local Bodies, Ludhiana has filed status report according to which most of the development works are complete. The builder-cum-developer is surely under legal obligation for upkeep of all development works and continuous repair, renovation and maintenance, any dereliction of duty in this regard has to be viewed seriously. Similarly, the Deputy

Director, Local Bodies is duty bound to supervise the development works and submit a periodical report to State Government after every three months with regard to the functional conditions of the amenities and other development works. Any lapse in this regard by the Officer can invite stern action by this Court.

[2] As regard to regularisation of the locality, the builder is directed to remove the objections raised by Government department/agencies and seek regularisation which shall be considered by the Competent Authority in a time bound manner. While the builder will complete the pending projects and apply for regularisation within three months from the date of receipt of a certified copy of this order, the Competent Authority shall, after inspection, take the final decision within two months thereafter.

[3] As soon as the amenities/development works are complete, the builder-cum-developer shall apply to the Municipal Council to take over the colony in accordance with law. The Municipal Council shall then assume the jurisdiction and take over the responsibility for future maintenance etc. subject to such terms and conditions as may be agreed to between the parties as per the licence or the Statute. The lapses, if any, on the part of the builder-cum-developer or any Government Authority need not be

made subject matter of a writ petition. Rather, the petitioner shall be at liberty to initiate the contempt of Court proceedings.

[4] The bank guarantee furnished to the State Government shall not be returned and shall have to be renewed from time to time till the completion of all development works.”

Learned counsel for the petitioner submits that the respondents have developed a colony, in which 531 plots were allotted to members of the petitioner-Society, however, development work is not undertaken either by the builder or by the Municipal Council.

Separate replies on behalf of the respondents have been filed. In the affidavit dated 08.11.2017 filed by Additional Deputy Commissioner, Fatehgarh Sahib, on behalf of respondent No.1, it is stated that notices were issued to the builder with regard to completing the development work.

In the affidavit filed by respondent No.2 dated 23.04.2018, it is stated that Regional Deputy Director-cum-Competent Authority on 29.09.2017 passed an order forfeiting the bank guarantee of Rs.20.00 lacs deposited with the Municipal Council by the builder. It is further stated that a survey was conducted and the list of incomplete works was prepared and estimate of Rs.128.177 lacs was prepared for completing the development work, however, Regional Deputy Director-cum-Competent Authority did not release the amount in favour of Municipal Council, Morinda for effecting the said development work. In the subsequent affidavit of respondent No.2 dated 26.11.2018, again a status report was filed, in which it is stated that roads,

water supply, sewerage, street light, parks, boundary wall, plantation etc. work is being undertaken and some of the items are to be maintained by the Municipal Council, Morinda and others by the Society.

In the affidavit filed on behalf of respondents No.3 to 6 dated 27.11.2018, it is stated that pending works will be completed after the colony is transferred to local Municipal Council i.e. Municipal Council, Morinda. Some of the details regarding deposit of the amount for completing the development work along with renewal of the licence fee are also given in this affidavit.

In another affidavit dated 27.10.2021 filed by the Additional Deputy Commissioner (Urban Development), Rupnagar, again a status report is filed. It is stated that the builder has constructed roads of the colony, sewerage treatment plant, street lights, parks, plantation etc., however, the same need regular maintenance. It is further stated that 50% of the plots have been constructed.

Learned senior counsel for respondents No.3 to 6 has filed fresh affidavit dated 01.11.2021, in which it is stated that some of the allottees have given undertaking that basic amenities have been provided by the builder.

In view of the above, further pendency of the present contempt petition, which is pending for the last 05 years, is no more required.

Dismissed.

However, it will be open for the Municipal Council/builder to claim regular maintenance charges from the allottees of the plots, to whom

the facilities of water supply, sewerage treatment plant, street lights etc. are provided to undertake the future maintenance.

**[ARVIND SINGH SANGWAN]
JUDGE**

17.01.2023
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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No