

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

CWP No.3607 of 2000

Date of decision:30.6.2014

Narain Dass Chawla

....Petitioner

VERSUS

Chandigarh Administration and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Arun Jain, Senior Advocate with
Mr. Sunil Sharma, Advocate for the petitioner.

None for the respondents.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to the orders dated 12.07.1993 (Annexure P-5) passed by the Estate Officer, Chandigarh; the order in appeal dated 15.09.1998 (Annexure P-14) passed by the Chief Administrator and the order dated 12.01.2000 (Annexure P-15) passed by the Adviser to the Administrator, U.T. Chandigarh. The petitioner also prayed a writ of mandamus directing the respondents to deliver possession of press site No.86, Industrial Area, Phase-I, Chandigarh.

The petitioner was running a printing press in the portion of the ground floor of House No.1710, Sector 22-B, Chandigarh. To rehabilitate the printing presses running in the residential premises, the Chandigarh Administration framed a scheme for allotment of industrial sites for printing presses. The petitioner applied for a site. A draw of lots of the plots was held on 09.11.1977. The petitioner was one of the successful applicant for the allotment of a plot. A letter of allotment was issued on 23.06.1988 on

payment of 25% of the cost of the plot but in spite of the deposit of the amount, the possession was not delivered due to encroachment on the site of the plot which was allotted to the petitioner. Since, the petitioner could not shift his printing press to the site, he continued to operate the printing press in the residential house which lead to initiation of proceedings under Section 8-A of the Capital of Punjab (Development and Regulation) Act, 1952 and the Rules framed thereunder. The site was resumed by the Estate Officer for the alleged misuse of running of the printing press in the residential building vide order dated 12.07.1993.

In appeal, the learned Chief Administrator passed an order directing the Estate Officer to hand over the possession of the press site to the petitioner. However, when the appeal came up for hearing before the Chief Administrator on 15.09.1998, the same was dismissed for the reason that the printing press is being run in the residential premises and non-handing over of the possession of the site of printing press shall not be a valid ground for continuing the misuse in the premises. In the further revision before the Adviser to the Administrator, Union Territory, Chandigarh, an conditional order was passed that the petitioner shall stop the misuse within 90 days keeping in view the fact that the possession of the allotted site is likely be to given in the near future. Since the possession was still not delivered, the petitioner filed a writ petition claiming possession of the site in question and also setting aside the orders of resumption.

Learned counsel for the petitioner argued that the petitioner has stopped the misuse and also shifted his printing press to the site, the possession of which was handed over during the pendency of the present writ petition. During the pendency of the present writ petition, the inspection reports have been furnished in terms of the orders of this court dated 19th

October, 2007. The first report is dated 05.02.2008 (Annexure P-17) that misuse of the building has stopped, second report is dated 12.07.2013 that ground floor was being used as residence by Mr. R.C. Chawla whereas first and second floor are used for residence by Mr. Narain Dass Chawla and his family. It has been reported that printing press which was earlier functioning has been shifted to Press Site No.86 Industrial Area, Ph-I, Chandigarh.

Since the misuse has been removed, we find that the orders of resumption of the site on the ground that the same was being misused by running of the printing press are no longer sustainable. The purpose of the right to resume is to seek compliance of the Statute and not to deprive the person of his property.

The writ petition is thus allowed. The orders dated 12.07.1993 (Annexure P-5), 15.9.1998 (Annexure P-14) and 12.01.2000 (Annexure P-15) are set aside.

(HEMANT GUPTA)
JUDGE

JUNE 30, 2014
'D. Gulati'

(FATEH DEEP SINGH)
JUDGE