

Stereo. H C J D A 38.
Judgment Sheet
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Civil Revision No.36715/2017
(LDA v. Manzoor Hussain)

J U D G M E N T

Date of Hearing	12.06.2018
Petitioner by:	Mian Tahir Maqsood, Advocate.
Respondent by:	Mr. Mohsin Mehmood Bhatti, Advocate.

Atir Mahmood, J.: Brief facts of the case are that the respondent filed a suit for declaration with permanent injunction against the petitioner with the averments that he purchased a plot measuring 18 marlas adjacent to Plot No.28, Industrial Area, Gulberg-III, Lahore from the petitioner-LDA for consideration of Rs.40,000/- per marla vide allotment letter No.DEM.LDA/7044 dated 14.11.1995; that possession of the plot was handed over to the petitioner vide letter dated 28.11.1995 on 30.11.1995; that the petitioner filed application for approval of site plan in the year 1996 followed by application dated 10.07.1997 alongwith proposed plan; that requisite fee for approval of the site plant was also deposited; that despite repeated visits, the LDA did not sanction the site plant which constrained the petitioner to start the construction; that the petitioner started construction over the suit plot; that the LDA instead of sanctioning the site plan started to threaten the respondent of demolition of the construction without any lawful authority; that the respondent first constructed the ground floor and then took in hand the construction on the first floor when the petitioner LDA issued notice dated 28.11.2011 for demolition of the construction; that the respondent approached the

petitioner LDA but to no avail which constrained him to file the instant suit.

2. The suit was contested by the petitioner LDA by filing written statement. Issues were framed. Evidence led by the parties was recorded. Thereafter learned trial court proceeded to decree the suit of the respondent vide judgment and decree dated 30.01.2012. Feeling dissatisfied, the petitioner filed appeal which was dismissed vide judgment and decree dated 06.01.2017 passed by learned Additional District Judge, Lahore. Hence this civil revision has been preferred.

3. Arguments heard. Record perused.

4. The sole contention of learned counsel for the petitioner is that since the plot was allotted for specific purpose of industrial setup, therefore, the site plan for residential building could not be sanctioned by the petitioner LDA, therefore, the building erected on the suit plot is illegal and unlawful.

5. Admittedly, the suit plot was allotted to the respondent vide allotment letter No.LDA/DEM/7044 dated 14.11.1995 (Exh.P1) and possession of the same was handed over to the respondent vide letter No. LDA/DEM/7282 dated 28.11.1995 (Exh.P3) on 30.11.1995. The allotment letter reads that:

“... LDA has decided to make an offer of sale of 18 marla of land situated in Gulberg-III, adjacent to plot No.28-Industrial Block, to you at the rate of Rs.40,000/- per marla ...”

The above letter does not suggest that the suit plot is an industrial plot rather it says that it is a plot which is located adjacent to Plot No.28, Industrial Block, Gulberg-III, Lahore. Even, there is no clause or condition in the allotment letter that the suit plot will not be used other than for industrial purpose. Same is the position with the possession letter (Exh.P3) whereby the possession of the suit plot was handed over to the respondent. There is no other document on record which may suggest that the suit plot was an industrial plot meant only for

industrial activity. In the circumstances, it cannot be said that the suit plot was an industrial plot. Instead thereof, it may or may not be an industrial plot or of some other category viz. residential etc. In this view of the matter, I am not in consonance with argument of learned counsel for the petitioner that the suit plot was meant for the industrial purposes only.

6. There is no denial by learned counsel for the petitioner that the site plan was submitted by the respondent before the LDA authorities for its sanctioning in 1996 but it could neither be objected to nor sanctioned by the LDA till date. He could also not deny that the requisite fee for approval of the sit plan was also deposited by the respondent. In this regard, Regulation 7 of Lahore Development Authority Building Regulations, 2016 being relevant in this case is reproduced below:

“7. Period of Approval

- (i) Within 60 days after the receipt of an application for permission to carry out Building Works, the Competent Authority shall:-
 - (a) pass orders granting or refusing permission to carry out such Building Works and in the case of refusal specify the provision of the Regulations violated; or
 - (b) require further details of the plans, documents, plan scrutiny fees, specifications and any other particulars to be submitted to it.
- (ii) If the authority does not pass orders granting or refusing permission specifying the provision of the Regulations violated within 60 days which all the necessary information asked for under 7(i)b has been furnished and all documents, plans, specifications and particulars called for have been submitted and plan scrutiny fee has been paid; or if such additional particulars have not been called for within the required 60 days from the receipt of an application, it shall be deemed to have been sanctioned to the extent to which it

does scheme provisions if any, and Controlled Areas requirements as the case may be.”

(Emphasis provided)

It is unambiguously clear from the above regulation that if a site plan is submitted for its sanction before the LDA authorities alongwith the payment of requisite fee and the same remains pending without any objection by the LDA for 60 days, it will automatically stand approved. In this perspective, the site plan submitted by the respondent alongwith payment of requisite fee, which remained pending without any objection with LDA authorities beyond the period would be deemed to be approved sanctioned plan. Since the petitioner LDA has not objected to the site plant during the period it remained pending with it, the LDA cannot object to it subsequently.

7. There are concurrent findings of law and fact against the petitioner which are immune from interference by this Court in its revisional jurisdiction unless there is some gross illegality, jurisdictional defect, misreading or non-reading of evidence therein. Learned counsel for the petitioner has not been able to point out any such illegality in the impugned judgments and decrees. No interference is called for.

8. For what has been discussed above, this civil revision has no substance which is accordingly **dismissed**.

(ATIR MAHMOOD)
Judge

Approved for reporting.

Judge

*Akram**

