

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 16301 of 2009

Date of Decision: 19.01.2012

Harpal Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE A.N. JINDAL**

Present: Mr. Jaswant Jain, Advocate
for the petitioner

Mr. Ajay Nara, Advocate
for respondents No. 2 to 4

HEMANT GUPTA, J.

Challenge in the present petition is to an order passed by Financial Commissioner & Principal Secretary, Government of Haryana, Town & Country Planning Department on 23.4.2009 exercising the powers of State Government and setting aside the order passed by the Chief Administrator dated 20.6.2007.

The Chief Administrator, Haryana Urban Development Authority, Panchkula on 15.12.1995 communicated to the petitioner, in response to his request for allotment of a residential plot, that the State Government is considering for an allotment of a residential plot measuring 4 Marlas in Sector 46, Urban Estate, Gurgaon. The said allotment was under discretionary quota of the State Government. The petitioner had to furnish an affidavit that he does not own any plot in the said urban area on the

acceptance. The petitioner conveyed his acceptance. A communication was addressed to the petitioner on 6.2.1996 (Annexure P-2) wherein 25% of the total tentative cost was to be paid initially within 30 days whereas remaining 75% was to be paid in six equal installments alongwith interest @ 15% per annum on the remaining amount.

The petitioner did not deposit the 25% of the amount so communicated within 30 days, but said to have remitted the same on 6.3.1996. The said amount was not accepted. Aggrieved against the non-acceptance of the amount of Rs.26,740/- and Rs.816/- as interest, the petitioner filed an appeal before the Administrator, HUDA. While exercising the powers of Chief Administrator, the Administrator HUDA accepted the appeal and directed the Estate Officer, HUDA, Gurgaon to intimate the outstanding amount within 7 days. The said order was set aside by the Financial Commissioner on 30.4.2009 vide order Annexure P-6.

A perusal of the documents attached with the writ petition shows that the petitioner has failed to deposit 25% of the amount within time granted vide communication dated 6.2.1996. In the absence of such deposit, the offer of the HUDA to allot plot was not accepted. The binding and concluded contract comes into existence only on account of deposit of initial amount of 25% as held by Hon'ble Supreme Court in *Chaman Lal Singhal v. Haryana Urban Development Authority, (2009) 4 SCC 369*. It has been held that non compliance of the terms of the letter of allotment does not give rise to binding contract. It was observed:

“17. The learned counsel appearing for the respondent, however, submitted before us that the provisions of Section 17 of the Act could not be applied to the facts and circumstances of the present case as there was in fact no agreement/contract between the parties. He also

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submitted that as the appellant failed to accept the offer of the respondent Authority by making payment of the amount as directed in the letter of allotment, there was no binding contract between the parties and, therefore, Section 17 of the Act has no application at all. It was further submitted that the forfeiture of the amount could have been and rightly done by the respondent Authority by invoking the mandate of Clause 4 of the letter of allotment."

Learned counsel for the petitioner has relied upon a judgment of Division Bench of this Court in *Manjit Singh vs. State of Haryana and others, 2002 HRR 639*, wherein this Court has held that opportunity of hearing is required before cancellation of provisional allotment.

The said judgment is not a good law, after the judgment of Hon'ble Supreme Court in *Chaman Lal Singhal's case* (supra). In view of the said fact, we do not find any merit in the writ petition. The same is accordingly dismissed.

PUNJAB AND HARYANA HIGH COURT

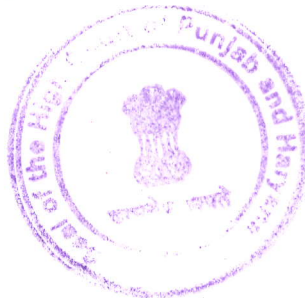
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(HEMANT GUPTA)
JUDGE

Sd

(A.N. JINDAL)
JUDGE

Sd



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