

DP No. - 830 / 16/12/14 Status Dismissed CA. 6836 / 18/11/14 W-10

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

To,

- 1) State of Haryana through its Secretary, Department of Town and Country Planning, Haryana Civil Secretariat, Chandigarh.
- 2) The Chief Administrator, Haryana Urban Development Authority, Sector 6, Panchkula.
- 3) The Administrator, Haryana Urban Development Authority, Sector 3, Rohtak.
- 4) The Estate Officer, Haryana Urban Development Authority, Sector 13-17, Panipat.

17-12-14
ACSTCP

CA/HUDA

Subject:- Civil Writ Petition No. 18088 of 2013
Vijay Kumar

O/o ACSTCP

Diary No. 317-11

Dated 17/12/14

Petitioner(s)

18-12-14

Versus

State of Haryana and others

DA vs Revisional authority

Respondent(s)

J - Sir, update cases

19-12-14

ADACD

In continuation of this Court's order dated 22/11/14 I am directed to

forward herewith a copy of Order dated 02.12.2014 passed by this Hon'ble High Court

in the above noted Civil Writ Petitions, for immediate strict compliance alongwith copy

of

Given under my hand and the seal of this Court on this 8th day of December 2014.

BY ORDER OF HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DA No 1538
22/12/14
Hbl sent to all
intend
Rover

[Signature] 9/12/14
Superintendent (Writ)
For Assistant Registrar (Writ)



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

CIVIL WRIT PETITION No. 18088 OF 2013.

Vijay Kumar S/o Sh. Hawa Singh resident of House
No. 628-R, Opposite Mid-Town Rotary Club,
Panipat, Tehsil and District Panipat.

-- Petitioner

VERSUS

9 1- State of Haryana through its Secretary,
Department of Town and Country Planning,
Haryana Civil Secretariat, Chandigarh.

9 2- The Chief Administrator, Haryana Urban
Development Authority, Sector-6, Panchkula.

9 3- The Administrator,
Haryana Urban Development Authority,
Sector-3, Rohtak.

9 4- The Estate Officer,
Haryana Urban Development Authority,
Sector 13-17, Panipat.

-- Respondents.

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Civil Writ Petition under article 226/227
of the constitution of India for the
issuance of a writ, especially in the
nature of certiorari for quashing the
impugned order dated 09.09.2004
(Annexure P-2) vide which the allotment
of commercial site of the petitioner has
been canceled and further prayer for
quashing of impugned order dated
10.10.2005 (Annexure P-5) vide which
the appeal of the petitioner has been
dismissed and for quashing of impugned
order dated 24.11.2010 (Annexure P-6)
vide which the revision petition of the
petitioner has been dismissed.

AND

Further directing the respondent No. 1 to
4 to restore the above said commercial
booth in the name of the petitioner.

OR

Any other appropriate order or direction
which this Hon'ble Court may deems fit
and proper in the peculiar facts and
circumstances of the case may also be
passed.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.18088 of 2013

Date of decision:2.12.2014

Vijay Kumar

....Petitioner

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Ajit Malik, Advocate for the petitioner.

Mr. Lokesh Sinhal, Additional Advocate General,
Haryana for respondent No.1.

Mr. Rahul Garg, Advocate for respondents No.2 to 4.

HEMANT GUPTA, J.(Oral)

The petitioner participated in a public auction and was a highest bidder in respect of Booth No.48, Sector 13-17, Panipat. A letter of allotment was issued on 27.02.2004. As per the terms and conditions of the allotment, the petitioner was required to deposit 15% amount of the total tentative cost of the plot within 30 days from the date of issuance of allotment letter but such amount was not deposited by the petitioner. The allotment of the site was cancelled on 09.09.2004. The petitioner filed an appeal which was dismissed on 10.10.2005 as also the revision petition on 24.11.2010 and consequently, the petitioner is in a writ petition before this Court.

The question as to whether the petitioner can be permitted to deposit 15% of the amount after 30 days contemplated in the letter of allotment has been examined by this Court in CWP No.17297 of 2013 titled Sonu Kapoor v. State of Haryana and others, decided on

12.09.2014, in which one of us was a member (Hemant Gupta J.). It has been held that the letter of allotment is only an offer which needs to be accepted by depositing 15% of the price of the plot. Since 15% of the price of the plot has not been remitted, no concluded contract comes into existence. It was so observed:

“In terms of the conditions of the letter of allotment, the petitioner was to communicate acceptance by Registered A.D. post along with an amount of Rs.3,33,207/-. The petitioner neither conveyed acceptance nor deposited the amount. Before 15% amount could be received by the respondents vide draft dated 21.12.2010, the letter of allotment was cancelled on 24.03.2009. It is the date of receipt of draft of Rs.3,60,000/- i.e. 21.12.2010 which can be considered to be relevant for the purpose of determining the period required to be extended for deposit of the 15% of the amount. Such period is more than three years of the issuance of letter of allotment. Even the 10% of the total price, which is the application money financed from the Bank was deposited by the petitioner only on 8.2.2012. Thus, the petitioner has not actually deposited even 10% amount nor the balance 15% amount before the letter of cancellation of allotment was issued on 24.3.2009. The policy does not permit extension of time for a period of more than one year as well.

The earlier policy dated 09.04.1999 prescribes the period of condonation of delay in deposit of the 15% amount, the officer who can condone the delay and surcharge rate leviable on 15% amount. Such policy has been considered by this Court in CWP No.16898 of 2014 titled as Om Parkash Thareja v. State of Haryana and others, decided on 28.08.2014, It was held that having failed to communicate the acceptance within 30 days, no concluded contract comes into existence in terms of Chaman Lal Singhal Versus Haryana Urban Development Authority and others 2009(4) SCC 369. The Hon'ble Supreme Court in Jasbir Singh Chhabra and others v. State of Punjab and others,(2010) 4 SCC 192 and Greater Mohali Area Development Authority and others v. Manju Jain and others, (2010) 9 SCC 157, has also held that on failure to deposit total amount of 25%, no concluded contract comes into existence as the letter of allotment is only an offer which is required to be accepted so as to create a contract. In Jasbir Singh Chhabra's case (supra) it was held as under:-

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In view of the aforesaid judgments, we find that since the writ petitioner has not sent the acceptance letter within the time granted in the letter of allotment, no right accrues to the petitioner."

Since the condition of depositing 15% of the amount has not been satisfied by the petitioner to conclude a contract, therefore, in view of the judgment in Sonu Kapoor's case (supra) following the judgments of Hon'ble Supreme Court in Chaman Lal Singhal's case (supra) and Manju Jain's case (supra), we do not find any merit in the present writ petition.

Dismissed.


(HEMANT GUPTA)
JUDGE


(HARI PAL VERMA)
JUDGE

DECEMBER 2, 2014

'D. Gulati'
D.

Remy



PUNJAB AND HARYANA HIGH COURT

D. Gulati
pay 2e inue

9/12
8/11/14