

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 20608 of 2016

DATE OF DECISION : 03.10.2016

Sushila Devi

.... PETITIONER

Versus

State of Haryana and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Ravinder Hooda, Advocate,
for the petitioner.

* * *

RAMENDRA JAIN, J.

1. The petitioner has filed this petition under Article 226 of the Constitution of India seeking issuance of a writ in the nature of certiorari to quash the letter dated 03.05.2016 (Annexure P-3) issued by the Estate Officer, Haryana Urban Development Authority, Rohtak (respondent No.4), whereby a sum of ₹ 77,900/-, being 10% of the total tentative price of residential plot No. 682, Sector 6, Rohtak (4 Marla), deposited by the petitioner as earnest money, has been forfeited and the allotment letter in respect of the said plot in favour of the petitioner has been cancelled. Further prayer has been made to issue a writ in the nature of mandamus directing the respondents not to cancel the allotment of the plot in question and to allow the petitioner to deposit the amount of the said plot as per schedule of payment.

2. The brief facts giving rise to this petition are that in pursuance

of the advertisement issued by the respondents inviting applications from the general public for allotment of various plots in Sector 6, Rohtak, by holding a draw, the petitioner submitted application for allotment of a plot measuring 4 Marla. Along with her application, she also deposited a sum of ₹ 77,900/-, being 10% of the total tentative price of the plot, as earnest money. In the draw, the petitioner was declared successful and vide allotment letter dated 22.05.2012 (Annexure P-1), she was allotted the plot in question. As per condition No.5 of the said letter, she was required to deposit 15% of the total tentative price of the plot within 30 days of the issuance of the letter, which she failed to deposit. Therefore, vide impugned order dated 03.05.2016 (Annexure P-3) issued by respondent No.4, ₹ 77,900/-, i.e. 10% amount of the total tentative price, deposited by the petitioner has been forfeited and the aforesaid allotment letter dated 22.05.2012 in favour of the petitioner has been cancelled. On receipt of the impugned order, the petitioner approached the respondents by moving representation dated 27.05.2016 (Annexure P-4) addressed to the Administrator, Haryana Urban Development Authority, Rohtak (respondent No.3), requesting the authorities to allow her to deposit 15% of the total tentative price of the plot along with the penalty amount as per the HUDA rules and the balance instalments, and to restore the plot in her favour. Since the said representation has not been decided so far, therefore, the petitioner has filed the instant petition.

3. Learned counsel for the petitioner contended that the petitioner could not deposit 15% of the total tentative price of the plot within stipulated time, on account of the fact that she suffered with disease Anal

Fistula (Fistula in ano) for which she got treatment and had to shell out huge amount. Besides this, the petitioner was told by the respondents to wait for some time for depositing the instalments, as SLP No. 14692 of 2010 [converted to Appeal (Civil) No. 4247 of 2012], titled as Pawan Kumar and others Vs. State of Haryana and others, with regard to acquisition of land for carving out residential plots in Sector 6, Rohtak, was pending in the Supreme Court. In the end of the allotment letter also, it was specifically mentioned that the allotment was made subject to decision of the aforesaid SLP. While relying upon a decision of this Court in Silochna Vs. State of Haryana and others (CWP No. 24188 of 2015, decided on 18.11.2015), copy of which has been annexed with the petition as Annexure P-5, learned counsel submitted that the respondents be directed to respond to the petitioner's representation dated 27.05.2016 (Annexure P-4) and to maintain status quo regarding the plot in question till decision of the said representation.

4. After giving our thoughtful consideration to the contentions raised by learned counsel for the petitioner, we do not find merit in the instant petition.

5. It is an admitted fact that the allotment letter was issued in favour of the petitioner on 22.05.2012, subject to terms and conditions mentioned therein. Conditions No.4 and 5 of the said letter, which are relevant for decision of the controversy involved in this case, read as under

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“4. In case you refuse to accept this allotment, you shall communicate your refusal by a registered letter within 15 days from the date of

allotment letter, failing which this allotment shall stand cancelled and the earnest money deposited by you shall be forfeited to the authority and you shall have no claim for damages.

5. *In case you accept this allotment, please send your acceptance by registered post along with an amount of ₹ 1,16,703/- within 30 days from the date of issue of this allotment letter, which together with an amount of ₹ 77,900/- paid by you along with your application form as earnest money, will constitute 25% of the total tentative price."*

From a conjoint reading of the aforesaid conditions, it is apparent that the petitioner was required to accept the allotment by depositing 15% of the total tentative price of the plot within 30 days from the date of issue of the letter, failing which allotment of the plot was to be cancelled and the earnest money deposited by the petitioner was to be forfeited. The petitioner did not deposit the requisite amount of 15% of the total tentative price of the plot for a period of about four years from the date of issuance of the allotment letter. Thus, there was no legally enforceable right which had accrued in favour of the petitioner. Adverting to the decision of this court in Silochna's case (supra) relied upon by learned counsel for the petitioner, suffice it to notice that the same was based on its individual fact situation involved therein and is, thus, not applicable to the facts of the instant case. In the case in hand, allotment of the plot has been cancelled after about four years of the issuance of allotment letter for non-deposit of 15% earnest money and instalments as per allotment letter. Thus, the impugned order dated 03.05.2016 cancelling the allotment and forfeiting the earnest money

cannot be said to be illegal.

6. Petition is, accordingly, dismissed.

sd/ (RAMENDRA JAIN)
JUDGE

October 03, 2016

ndj

sd/ (AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/~~No~~

*Amended Dec
16-12-2016*

PUNJAB AND HARYANA HIGH COURT

DFA Ad deal.

*bar
22-10-16*

*sfw
22/10/16*

