

File No. 1182R
Date 24/6/08
Cio F.C.T.C.P.

Refer to Report

DP-1239B

24 JUN 2008 1969 W-30

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

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24-6-08
FCTCP

C.A.

To
1- State of Haryana through the Commissioner & Secretary to Govt. of Haryana, Town & Country Planning Deptt., Haryana Civil Services, Chandigarh

2- The Administrator, Haryana Urban Development Authority, Faridabad

3- Haryana Urban Development Authority, Bahadurgarh, Distt. Jhajjar, through the Estate officer.

Subject: Civil Writ Petition No. 5371 of 2007
Smt. Sunit Ahlawat

vs.
State of Haryana/Punjab, Chd. Admn./ UOI and others

--petitioner

---respondents.

Sir,

In continuation of this Court's orders dated _____

I am directed to forward a copy of Order, 20.5.08 passed by the Hon'ble High Court in the above noted Civil Writ Petition for immediate strict compliance, along with a copy of Annexure P- _____ copy of order dt. _____ passed in CWP No. _____

Given under my hand and the seal of this Court on this 31 Day of June 2008.



BY ORDER OF HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

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

CIVIL WRIT PETITION NO. 5371 OF 2008.


Smt. Saroj Ahlawat wife of Shri Kuldeep Singh Ahlawat, R/O Haryana
Roadways General Manager Residence, Railway Road, Sonapat (Haryana).
... PETITIONER.

VERSUS.

1. State of Haryana through the Commissioner and Secretary to Government of Haryana, Town & Country Planning Department, Haryana Civil Secretariat, Chandigarh;
2. The Administrator, Haryana Urban Development Authority, Faridabad.
3. Haryana Urban Development Authority, Bahadurgarh, District : Jhajjar, through the Estate Officer.

... RESPONDENTS.

CIVIL WRIT PETITION under Article 226 of the Constitution of India, praying ~~for issuance of a Writ in the nature of~~



Adv. 537108

PRAYER - 2 -

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~~It is, therefore, most respectfully prayed~~ that this Hon'ble Court may be pleased to :-

- i) summon the entire records of the case, for its kind perusal;
- ii) issue a Writ in the nature of Certiorari, quashing the impugned Order dated 12.02.2008 (Annexure P-13) passed by the Commissioner & Secretary to Government of Haryana, Town & Country Planning Department;
- iii) issue any other appropriate Writ, Order or Direction, which this Hon'ble Court may deem fit and proper, in the facts and circumstances of the present case;
- iv) exempt the petitioner from filing the certified copies of Annexures P-1 to P-13 with the Writ Petition;
- v) dispense with the serving of advance notices of this Petition upon the respondents;
- vi) award the costs of this Writ Petition in favour of the petitioner and against the Respondents.

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It is further most respectfully prayed that the Respondent No. 3 - Haryana Urban Development Authority, may kindly be restrained from alienating the Plot No. 1675, Sector 9,9-A, Bahadurgarh, measuring 420 Sq. Mtrs., during the pendency of the present Writ Petition in this Hon'ble Court, in any manner whatsoever.

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

**CWP No. 5371 of 2008
Date of Decision: 20.05.2008**

Smt. Saroj Ahlawat

... Petitioner through
Mr. V.K.Jain, Sr. Advocate with
Mr. Paramjit Vasisth,
Advocate

Versus

State of Haryana and others

... Respondents through
Mr. Ajay Nara, Advocate.

**CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR. JUSTICE JASWANT SINGH**

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Vijender Jain, Chief Justice (Oral)

Notice of motion.

Mr. Ajay Nara, Advocate accepts notice on behalf of the respondents.

Petitioner has filed this writ petition, inter-alia, praying for quashing the revisional order dated 12.2.2008 (Annexure P-13) whereby the order dated 16.10.2006 (Annexure P-8) passed by Administrator,

CWP No. 5371 of 2008

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measuring 420 Sq. Mtrs. in Sector 9, 9-A, Bahadurgarh in draw of lots, vide letter No. 4492 dated 28.7.2000. It is the case of the petitioner that daughter of the petitioner was diagnosed having tumor in her brain and she was operated upon because of that ailment. Since the petitioner had to spent a lot of money on her treatment, she moved an application to the Estate Officer, HUDA, Bahadurgarh for refund of the amount which was deposited by her towards the earnest money as well as the price of the plot.

We may note here that only two annual installments totalling a sum of Rs. 5,31,969/- were deposited by the petitioner by the end of the year 2001. The tentative cost of the plot, when it was allotted, was Rs. 10,63,914/-.

The Estate Officer in April, 2004 acceded to the prayer of the petitioner and ordered the refund of the amount deposited by her after deducting an amount of 10% of the costs and after making certain other deductions.

After 1½ years, on 28.12.2005. the petitioner filed an appeal (Annexure P-6) before the Administrator, HUDA, Rohtak for restoration of the residential plot in question. The Administrator/Appellate Authority restored the plot vide its order dated 16.10.2006 (Annexure P-8). It was on 23.10.2006 the petitioner deposited a sum of Rs. 10,08,422/- with the respondents and demanded the possession of the plot. However, the possession of the plot was not given to the petitioner, she filed a complaint with the District Consumer Disputes Redressal Forum, Jhajjar on 30.3.2007.

On 26.2.2007, Estate Officer, Bahadurgarh filed a Revision Petition against the appellate order dated 16.10.2006. Revisional Authority i.e. Respondent No.1 allowed the revision petition and set aside the order of the Administrator vide order dated 12.2.2008 (Annexure P-13). The order passed by the Administrator dated 12.2.2008 has been impugned before us by the petitioner.

At the out set, we asked Mr. Jain, learned Senior counsel appearing for the petitioner as to under what provisions of law, Administrator, HUDA, Rohtak exercising the power of Chief Administrator, HUDA, could have restored the plot in question to the petitioner. On this, Mr. Jain has very fairly conceded that there is no provision under which the plot in question could have been restored by the Administrator, HUDA.

The mode of allotment of plots is clearly laid down in Haryana Urban Development Authority Act and the policies/guidelines issued from time to time. When there is no provision in the Haryana Urban Development Authority Act and the policies/guidelines issued from time to time for restoration/allotment of a plot, which was voluntarily surrendered by the allottee, the same could not have been reallocated to the allottee.

Before parting, we would like to observe that petitioner while making application for surrendering the plot took the ground of the costs of the treatment which was spent on the treatment of her ailing daughter, whereas in the application which was made for restoration/reallotment of the plot, she took a plea that the plot was surrendered on account of

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was different. It is not understandable how the Administrator in the year 2005 could have ordered for reallocation of the plot which was originally allotted to the petitioner in the year 2000, on the rate prevalent at the time of original allotment. According to us, the same cannot be done because the prices in the year 2000 were much less than the prices which were prevalent in the year 2005.

We find no infirmity in the order passed by the Revisional Authority.

There is no merit in this petition.

Dismissed.

The amount so deposited by the petitioner, be returned to her in accordance with rules, within a period of four weeks, from the date of receipt of a certified copy of this order.

Sd/- Vijender Jain
Chief Justice

SD/- JASWANT SINGH
JUDGE

20.05.2008
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To be referred to the Reporter.