

Status Dismissed

402

25/5/14

W-10

DP No.:

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

To,

- 1) The State of Haryana through the Secretary and Financial Commissioner, Town and Country Planning, Haryana Civil Secretariat, Chandigarh.
- 2) Haryana Urban Development Authority, through its Chief Administrator, Sector 6, Panchkula.
- 3) Administrator, HUDA, Rohtak.
- 4) Estate Officer, HUDA, Sonapat.

Can order. Pl post
on the website.

9-5-14
PSTCP

Subject:- CWP No. 7280 of 2014
Jitender Kumar Jain

CA/HUDA

Petitioner(s)

Versus

State of Haryana and others

Respondent(s)

Sir,

In continuation of this Court's order dated _____ I am directed to forward herewith a copy of Order dated 22.04.2014 passed by this Hon'ble High Court in the above noted Civil Writ Petitions, for immediate strict compliance alongwith copy of

BY ORDER OF HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Given under my hand and the seal of this Court on this 2nd day of May 2014.

AD: 2/5/14
Superintendent (Writ)
For Assistant Registrar (Writ)

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

C.W.P. No. 7280 of 2014

Jitender Kumar Jain S/o Sh. Sham Lal Jain, R/o
SCO 1132-33, Sector-22-B Chandigarh .

... Petitioner

Versus

1. The State of Haryana through the Secretary
and Financial Commissioner, Town and
Country Planning, Haryana Civil
Secretariat, Chandigarh.
2. Haryana Urban Development Authority,
through its Chief Administrator, Sector 6,
Panchkula.
3. Administrator, HUDA, Rohtak.
4. Estate Officer, HUDA, Sonipat.

.... Respondents

CIVIL WRIT PETITION UNDER
ARTICLES 226/227 OF THE
CONSTITUTION OF INDIA FOR
ISSUANCE OF A WRIT IN THE
NATURE OF CERTIORARI FOR
QUASHING THE IMPUNGED ORDER
DATED 28.2.2014 (Annexure P-9)
PASSED BY THE RESPONDENT NO.1
WHEREBY THE REVISION PETITION
FILED BY THE PETITIONER
AGAINST THE ORDER OF THE LD.
ADMINISTRATOR, HARYANA URBAN
DEVELOPMENT AUTHORITY, ROHTAK
i.e. (respondent no.3) DATED
27.10.2008 i.e. (Annexure P-7)
WAS DISMISSED AND THE
RESUMPTION ORDER DATED
25.10.1995. PASSED BY THE
ESTATE OFFICER, HARYANA URBAN
DEVELOPMENT AUTHORITY SONIPAT
i.e. (RESPONDENT NO.4) WAS
CONFIRMED.

AND

FOR ISSUANCE OF A WRIT IN THE
NATURE OF MANDAMUS FOR

DIRECTING THE RESPONDENTS TO RESTORE BACK THE RESIDENTIAL PLOT TO THE PETITIONER KEEPING IN VIEW THE JUDGEMENT OF HON'BLE SUPREME COURT OF INDIA IN JASBIR SINGH BAKSHI VERSUS UNION TERRITORY CHANDIGARH REPORTED AS 2004 (3) PLR PAGE 20 AND M/S GAGAN FOODS PROCESSORS (P) LTD VERSUS UNION TERRITORY CHANDIGARH AND OTHERS REPORTED AS 2003 (2) R.C.R (CIVIL) 645 AND JUDGEMENT PASSED BY OUR HON'BLE COURT IN M/S G.K. AUTO ENGINEERS VERSUS STATE OF PUNJAB AND OTHERS REPORTED AS 2005 (3) PLR 62 IN THE INTEREST OF JUSTICE .

OR

ANY OTHER WRIT, ORDER OR DIRECTION WHICH THIS HON'BLE COURT DEEMS FIT AND PROPER IN THE FACTS AND CIRCUMSTANCES

OF THIS CASE MAY ALSO BE
ISSUED.

RESPECTFULLY SHOWETH:-

1. That the Petitioner is a resident of Haryana state and being a citizen of India is entitled to invoke the extra ordinary writ jurisdiction of this Hon'ble Court.

2. That the facts postulating the filing of the present writ petition are summed up hereunder:-

a) That the respondent No.4 on free hold basis invited the applications for residential plots in Sonipat and in pursuance to the same the petitioner was allotted one residential plot bearing No 1968-P, Sector-23, Sonipat by the office of respondent No. 4 vide allotment letter bearing Memo No.6956 dated 26.7.1991 having area of 420 sq. meters at the tentative cost of Rs.3,54,480/-. Copy of the allotment letter dated 26.7.1991 is annexed

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

Civil Writ Petition No. 7280 of 2014(O&M)

Date of Decision: April 22, 2014.

Jitender Kumar Jain

..... PETITIONER (s)

Versus

State of Haryana and others

..... RESPONDENT (s)

**CORAM:- HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Gaurav Bakshi,
Advocate, for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reports or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

The petitioner in this case had applied for the allotment of a residential plot at Sonapat on freehold basis. An offer of allotment was made to the petitioner vide letter dated 26.07.1991, Annexure P1. It was stipulated in clause 5 of the said letter that in case the allotment was accepted, 25% of the tentative price should be deposited within 30 days from the date of issuance of the said letter. The balance amount of the tentative price could be paid in lump sum without interest within 60 days or in six annual installments.

The first installment would fall due after expiry of one year from the date of issuance of letter dated 26.07.1991 (clause 6).

The petitioner deposited 25% of the price within the stipulated period but thereafter, none of the outstanding dues were paid. ~~By the petitioner~~ ^{by}

When the petitioner after being afforded various opportunities to deposit the said amount did not do so, the Estate Officer, HUDA, Sonapat in exercise of powers under Section 17(4) of the Haryana Urban Development Authority, Act, 1977 (hereinafter referred to as the 'Act') resumed the aforesaid plot vide Memo dated 25.10.1995, Annexure P2.

The appeal preferred by the petitioner was decided by the Administrator, HUDA, Faridabad on 24.07.1996, which was endorsed on 07.08.1996 wherein a lenient and sympathetic view was taken. The plot, in question, was restored subject to the petitioner depositing the entire outstanding dues as per the rules within a period of 30 days from the date of issuance the order.

It is contended that the petitioner vide various letters annexed as Annexure P4, collectively, had written to the Estate Officer, HUDA, Sonapat asking for the details of outstanding dues qua the said plot. The Estate Officer, HUDA vide Memo dated 20.01.2006 intimated the petitioner that no payment could be accepted at this stage as the petitioner had failed to clear the up-to-date balance dues as per the HUDA rules within 30 days from the date of issuance of the order passed by the Administrator, HUDA, Faridabad. The petitioner preferred an appeal against Memo dated 20.01.2006, which was dismissed by the Administrator, HUDA, Rohtak, treating it to be a time barred

as well as not maintainable (Annexure P7).

The petitioner's revision petition under Section 17(8) of the Act was also dismissed vide order dated 28.02.2014.

It is contended by learned counsel for the petitioner that the outstanding dues could not be deposited by the petitioner as the respondent-authority had never communicated the amount due towards him in respect to the above-noted plot. It is also urged on behalf of the petitioner that no development work had been carried out in the area and, thus, the authority was not entitled to recover any amount from him. The petitioner is also alleged to have been discriminated against inasmuch as relief allegedly given in similar cases has been denied to him. Learned counsel for the petitioner also stated that petitioner is ready and willing to pay the entire outstanding amount alongwith interest, penalties etc. leviable under the Act in case the plot is restored to him.

After having heard learned counsel for the petitioner and going through the facts of the case, we are satisfied that the impugned orders have been correctly passed. The plea of the petitioner that the respondent-authorities were under obligation to have first communicated the dues to him, is wholly misconceived. The allotment letter dated 26.07.1991, Annexure P1, clearly reflects the total amount due and the amount which is to be paid in six annual installments. It is clearly stipulated that each of the installments would be recoverable together with interest on the balance price at the rate of 10% interest on the remaining amount. The lack of bona fide of the petitioner is apparent on the fact that after the passing of conditional order dated

24.07.1996/07.08.1996 in his favour, a letter dated 23.04.1997 was sent by him asking for the details of the dues, clearly after expiry of the period of 30 days stipulated. No amount whatsoever was ever offered/tendered by him towards the outstanding dues before the authorities. It is only before the revisional authority, an amount of ₹5,00,000/- is stated to have been tendered.

The contention of the petitioner that he was not liable to make any payment of the installments due on account of no development works having taken place in the area, is liable to be rejected especially keeping in view the observations of the Hon'ble Supreme Court in Amarjit Singh and others v. State of Punjab and others, 2010(10) SCC 43. It has clearly been held that the payment of installments has no nexus with the completion of development works or the provision of amenities.

The submission on behalf of the petitioner that he is ready to make the payment of the entire outstanding amount alongwith interest, penalties etc. at this stage, can be of no avail to him. This Court has observed in a case titled as Bhajan Singh v. Advisor to the Administrator, U.T. Chandigarh and others, CWP No.4672 of 2014 decided on 09.04.2014 that permitting the allottee to make payment alongwith interest etc. at a belated stage which would cause an avoidable loss to the State exchequer cannot be allowed.

The question of discrimination has been dealt with succinctly by the revisional court in its order dated 28.02.2014 and has been rightly rejected as in the other there had been a specific direction by the Appellate Authority to the Estate Officer to convey the dues to be paid by the allottee in that case and

CWP No.7280 of 2014

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the same was not conveyed.

Therefore, we are of the considered view that there is no infirmity in the impugned orders. Hence, this writ petition accordingly is dismissed.

Sd/- (SURYA KANT)
JUDGE

Sd/- (LISA GILL)
JUDGE

April 22, 2014.
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