

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

Reserved on: 06.08.2025

Pronounced on:22.08.2025

CJ Court

LPA No.129/2023

Rakesh Kumar Sharma S/o Late Sh. B. N.
Sharma R/o A2/10, Police Computers,
CGHS Ltd. Vasundhara Enclave, Delhi.

...APPELLANTS(S)

Through: - Appellant in person.

Vs.

1. Managing Director, J&K Housing Board,
Green Belt Park, Gandhi Nagar, Jammu.
2. Secretary, J&K Housing Board, Green Belt
Park, Gandhi Nagar, Jammu.

...RESPONDENT(S)

Through: - Ms. Monika Kohli, Sr. AAG.

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

JUDGMENT

OSWAL 'J'

1) For the sake of convenience, the expression "appellant" used henceforth shall mean the original appellant as the original appellant has expired and this appeal is being prosecuted by his son Rakesh Sharma.

2) On 27.09.2010, the appellant applied with the respondents for allotment of a plot in Housing Colony, Kathua. The application was accompanied with a demand draft for an amount of Rs.1,59,360/ and Rs.1,000/ as registration fee. In the year 2011, the respondent No.2 issued communication dated 23.04.2011, intimating the

appellant that his application on plain paper was not acceptable and he should apply afresh in the prescribed format, besides the appellant was also requested to submit a bank draft of Rs.19,123/ on account of balance registration fee. In response thereof, the appellant submitted a demand draft of Rs.19,123/. Thereafter the appellant was offered the plot at the cost of Rs.11,89,888/ and he was asked to make the payment of above mentioned amount in four installments within a period of ten months from the date of issue of letter of intent. The appellant accepted the demand made in the notice and, accordingly, deposited the cost of plot in full i.e. Rs.11,89,888/. After the deposit of above mentioned amount, the respondents made allotment of plot vide communication dated 23.01.2013 but raised a demand of Rs.5,281/ on account of the interest for making delayed payments.

3) In the year 2013, the appellant wrote a letter to the respondents in respect of excess payment demanded by them and thereafter submitted repeated representations on 11.03.2016, 26.04.2017, 22.04.2017 and 04.01.2019. The appellant received a communication dated 13.03.2019 from the respondents where by his request was rejected.

4) Aggrieved of the communication dated 13.03.2019, the appellant, preferred a writ petition bearing WP(C) No.1685/2020 for quashing of the said communication and for commanding the respondents to allot Plot No.17, Sector 3,

measuring 40'x80' at Housing Colony, Kathua at the prevailing cost of the year 2010, on the ground that the appellant had applied for the allotment of plot in the year 2010 and had even deposited the requisite amount and, as such, the respondents were under an obligation to allot the plot in question to the appellant at the rates prevalent in the year 2010.

5) The respondents filed their response and objected to the claim of the appellant by submitting that the appellant deposited a bank draft of his own without fulfilling the formalities for allotment of plot in Housing Colony, Kathua. Since the applications for allotment of plots were considered only against due demand notice issued by the Housing Board and as the appellant had not responded to the due demand notice, his application was not considered and, accordingly, he was informed vide communication dated 23.04.2011 to submit the duly attested form, a bank draft amounting to Rs.19,123/ as registration fee and signed copy of the brochure containing terms and conditions issued against demand notice dated 29.01.2011, wherein the rate for plot measuring 40'x80' was explicitly mentioned as Rs.11,89,888/. The amount so deposited by the appellant was adjusted in the amount payable in terms of the offer letter. The appellant responded to the aforementioned communication and submitted the requisite documents along

with duly accepted and signed copy of the brochure along with registration fee of Rs.19,123/. The appellant also deposited the cost of the plot in compliance to the letter dated 27.12.2011 and in consideration of payment of cost, Plot No.17, Sector 3 measuring 40'x80' was allotted to the appellant vide communication letter dated 23.01.2013. It was further submitted by the respondents that after having accepted the terms and conditions of the offer letter and depositing the amount of Rs.11,89,888/ pursuant to demand notice dated 29.01.2011, the appellant is estopped from claiming the amount already paid by him pursuant to the demand notice.

6) The learned Writ Court, after hearing the parties, vide its order dated 18.08.2022, disposed of the writ petition preferred by the appellant by directing the respondents to immediately and forthwith handover the possession of the plot to the appellant without insisting or claiming the interest amount of Rs.5,281/ for delayed payment of installments. It is worth-while to mention here that the learned Writ Court taking into consideration the age of the appellant being in 90s, held him entitled to waiver of interest

7) Aggrieved of the order dated 18.08.2022, the appellant has filed this intra-court appeal on the grounds as urged in the writ petition and taken note of as above.

8) Heard appellant in person and learned counsel for the respondents and also perused the record of the case.

9) This is an admitted fact that the appellant applied for allotment of plot in the year 2010 and also submitted a demand draft of Rs.1,59,360/ being 15% of the cost of plot and Rs.1,000/ as registration fee but as the application submitted by the appellant was not in response to any demand notice issued by the respondents, he was informed vide communication dated 23.04.2011 to pay an additional amount of Rs.19,123/ by way of a demand draft and was also asked to sign the brochure containing the terms and conditions issued against demand notice dated 29.01.2011 wherein the cost of plot was mentioned as Rs.11,89,888/. The appellant not only paid the additional amount of Rs.19,123/ by way of demand draft as balance registration fee but also signed the brochure containing the terms and conditions issued against demand notice dated 29.01.2011. The appellant also deposited an amount of Rs.11,89,888/ as cost of the plot. After having accepted the terms and conditions of allotment and depositing cost of the plot pursuant thereto, the appellant is estopped from laying any claim that he was entitled to allotment of plot at the cost prevalent in the year 2010.

10) We have examined the judgment passed by the learned Writ Court and we do not find any illegality or impropriety

whatsoever therein and rather the learned Writ Court has, on humanitarian grounds, waived interest of Rs.5,281/ on account of delayed payments. No fault can be found with the judgment rendered by the learned Writ Court.

11) Viewed thus, we do not find any merit in this appeal and the same is dismissed accordingly.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar
22.08.2025
“Bhat Altaf”

Whether the **Judgment** is speaking: **Yes**
Whether the **judgment** is reportable: **No**

