



In the High Court of Punjab and Haryana at Chandigarh

CWP No. 23913 of 2024 (O&M)

Reserved on: 6.3.2025

Date of Decision: 08.4.2025

Mridul Sharma

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Argued by: Mr. Raman Sharma, Advocate
for the petitioner.

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Nitish Bansal, Advocate for
Mr. J.S.Gill, Advocate
for the respondent-GMADA.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner seeks the quashing of the impugned order dated 16.5.2024 (Annexure P-1/A) whereby, the representations moved by the petitioner respectively dated 7.8.2022 (Annexure P-8) and dated 10.10.2022 (Annexure P-9) rather became rejected by the respondent concerned, without adverting to the question posed by this Court in the order dated 3.10.2023 passed in CWP No. 22069 of 2023.

Brief facts of the case

2. It is averred in the instant petition, that the petitioner purchased a plot bearing No. 2173, Block-C, Eco City, Phase-1, New Chandigarh, from one Mrs. Manju Sharma, who was the allottee of the said plot under, the land pooling scheme. As per the instruction dated 5.9.2008, issued by the



Department of Urban Development (Revenue Branch) Punjab, a period of five years has been granted to the allottees of 'Land Pooling Scheme' for construction over the allotted plot. However, for other allottees, the period of construction was three years. It is further averred that vide allotment letter dated 16.10.2015 (Annexure P-3), the Greater Mohali Area Development Authority (for short 'GMADA') allotted the subject plot, thus under the land pooling scheme to Mrs. Manju Sharma. Vide letter dated 11.12.2019, respondent No. 2 issued No Dues Certificate to the said allottee. It is further averred that since the said allottee being interested to dispose of the said plot, therefore she applied for the same and vide letter dated 5.10.2020 issued by the GMADA, thus permission was granted to her to execute the conveyance deed. Subsequently, the conveyance deed was executed between the parties on 14.10.2020, and, mutation was also entered in the name of the said allottee.

3. Subsequently, the allottee Manju Sharma filed an application dated 20.10.2020 before the respondent concerned, seeking permission to sell the plot (supra), and, also deposited an amount of Rs. 6330/-, on account of processing fee, whereupon on 27.10.2020, permission became granted to her to sell the said plot. It is further averred that since the period of five years in context of 'non construction' which became computed from the date of the initial allotment i.e. 16.10.2015 upto the grant of permission to sell the plot i.e. 27.10.2020, though expired on the date of supra permission becoming granted. However, since the allottee concerned, had also deposited Rs. 62,300/- on 28.10.2020, on account of non-construction fee for the initial period of six months. Subsequently also since Mrs. Manju Sharma got registered a sale deed dated 17.11.2020 in favour of the present petitioner.



Ownership in the name of the present petitioner was also transferred by respondent No. 2 on 7.12.2020. Therefore, the impugned order is defective.

4. It is further averred, that after getting the requisite plans sanctioned, and, after getting due permission, the petitioner started construction of the house over the subject plot, and, submitted application for 25% completion on 30.10.2021. It is further averred, that as per the policy, if a person raises 25% construction over the plot, thereupon no penalty for non-construction is chargeable. However, respondents No. 2 and 3 rather kept the matter pending and by invoking the condition of the policy, though thus insisted upon the petitioner to pay non-construction charges from the back date i.e. after the expiry of three years of allotment to the allottee concerned. In the said regard, the petitioner made representations respectively dated 7.8.2022 (Annexure P-8) and dated 10.10.2022 (Annexure P-9).

5. Furthermore, it is averred that the petitioner also filed a petition bearing CWP No. 22069 of 2020 before this Court, which became disposed of by this Court on 3.10.2023 with a direction to the respondents to decide the representations (supra) by passing a reasoned order. However, the respondent concerned, vide the impugned order, rather rejected the said representations, but without advertng to the issues raised in the representations (supra).

Submissions on behalf of the learned counsel for the petitioner

6. The learned counsel for the petitioner submits-

(i) That the demand raised by respondent concerned, does not fall within the purview of the relevant policy/instructions dated 5.9.2008,



whereof becomes extracted hereinafter.

“Period of 5 years shall be given for construction on residential plots instead of 3 years.

(ii) That the impugned demand of non-construction charges is wrong and illegal, inasmuch, as the petitioner cannot be held liable for any dues for the period prior to purchase of the plot by her.

(iii) That once the land pooling allottee has exhausted the five years period, therefore, the sale after the expiry of five years of allotment, would not attract condition No. 8 of the letter of allotment, condition whereof becomes extracted hereinafter. However, the said issue has not been dealt with by the authority concerned, and, that vide the impugned order, the said representations were wrongly rejected by the authority concerned, without adverting to the question posed by this Court in the order dated 3.10.2023, passed in CWP No. 22069 of 2023.

“8. The allottee shall complete the building as per the approved plan within a period of 5 years from the date of possession or deemed possession of plots provided this plot remains with landowner for 5 years. In case this plot is sold/transferred, then rule of permissible time limit of 3 years from date of issuance of first allotment letter shall be applicable on new buyer. If the construction on the plot is not completed within the time stipulated, extension in construction period would be granted subject to payment of extension fee, as may be determined from time to time. However, extension in period of completion of building shall be subject to the satisfaction of the Estate Officer, that the failure to complete the building within the stipulated period was due to a cause beyond the control of allottee. But allottee cannot claim this extension in time limit as a matter of right.”

7. Therefore, it is prayed that the impugned order be quashed and set aside.

Submissions on behalf of the learned counsel for the respondent-GMADA



(i) That in compliance of the order passed by this Court, on 3.10.2023, upon CWP No. 22069 of 2023, the representations filed by the petitioner, were examined and considered by the authority concerned, and, the same became rejected by passing a detailed speaking order.

(ii) That the petitioner, who has purchased the subject plot from Mrs. Manju Sharma, was well aware of condition No. 8 of the allotment letter. Therefore, she is bound to pay the non-construction charges for the period ranging from 16.10.2018 upto 31.11.2021 i.e. after three years from the date of allotment letter i.e. 16.10.2015.

Inferences of this Court

9. For the reasons to be assigned hereinafter, the supra condition appertaining to the levying of non-construction fee, is both arbitrary, and, also is unreasonable. The reason for stating so becomes garnered, from the factum, that the initial allottee one Mrs. Manju Sharma, sought and became granted permission to transfer the subject plot to the present petitioner, rather through an order made on 27.10.2020, besides she also then paid the non-construction fee, thus for the initial six months. Resultantly the effect of the initial allottee i.e. the vendor of the present petitioner, liquidating a sum of Rs. 62,300/- as non-construction fee or as extension fee, appertaining to the initial period of six months, thereby the benefit thereof was required to be endowed to the present petitioner. Moreover thereby, the condition whereby the period of three years is to be computed from the date of the initial allotment, being made thus to the initial allottee, becomes subsumed within the said deposit.

10. Now considering the present issue, from the stand point, that since the subject plot became allotted to the initial allottee under the Land



Pooling Scheme, whereby in terms of Annexure P-2, with a stipulation therein, that in respect of the above genre of allotment, rather within a period of five years, the initial allottee has to raise construction over the subject plot. If so, since the respondents concerned, yet vis-a-vis the initial allottee, have applied the period of three years, thus for the raising of construction over the subject plot. Resultantly, the said period was not required to be created either vis-a-vis the subject plot, nor qua the initial allottee, or qua the subsequent allottee, who is the present petitioner. If so, the attraction of supra vis-a-vis both, to the initial allottee, and, to the subsequent allottee, inasmuch as, the condition whereby the construction, was to be raised over the subject plot within three years, from the initial allotment, is a complete mis-attraction thereof both qua the initial allottee and the subsequent allottee i.e. the present petitioner.

11. Now assuming that the policy condition stipulates, that the initial allottee is to raise construction over the subject plot within five years from the date spoken in the initial allotment, besides though also stipulates that the said period of five years is to be purveyed to the initial allottee, but subject to possession over the plot remaining with the initial allottee, whereas, in the event of possession of the subject plot becoming transferred by the initial allottee to his/her alienee, thereby the permissible limit of three years, becoming created for the raising of construction over the subject plot, and, the said period of three years becoming stated to become functional from the date of the initial allotment, but naturally thereby the present allottee would remain without any shelter. The relevant condition cannot be read in the said manner. If it is still read in the said manner, thereby it would become imbued with the stench of irrationality.



12. Ex facie, since the initial allottee never raised construction over the subject plot for five years, and, subsequently on expiry of five years on 27.10.2020, but after permission being granted to her, to alienate the subject plot, she executed a deed of conveyance in favour of the petitioner. Consequently, the granting of the relevant permission to the alienor of the present petitioner, by the respondent concerned, does have the consequent effect, that therebys if yet the period of three years, for any construction being raised over the subject plot, is to be applied vis-a-vis the present petitioner, thereupon the very purpose of the effective functionality of the registered deed of conveyance, rather would not only become rendered completely redundant, besides therebys the permission granted by the department, to the alienor of the present petitioner, to execute a registered deed of conveyance, would also become completely frustrated. Moreover therebys, the right, title and interest acquired over the subject plot, by the subsequent allottee i.e. the present petitioner, thus would suffer immense erosion, as therebys the petitioner would become disabled to utilize the subject property rather for the purpose for which she had purchased the same from the previous alienor, that too with the permission of the department. Consequently, all the supra ill-consequences are required to be obviated.

12. Additionally the said rule is not got to be read either *stricto sensu*, nor is to be applied in a rigid manner, so as to undermine, the effect of the necessity of construction being a sequel of sanctioned plans becoming obtained from the competent authority. Now in case, the previous allottee failed to obtain the sanctioned plans, wherebys the present petitioner was led



to apply for, and, obtain the sanctioned plans, which may be but a necessary precursor for the raising of constructions over the subject plot. Resultantly, if yet the said necessity is sidelined, through the invocation of a period of three years for the raisings construction over the subject plot, and, the same being computed from the date of initial allotment, thereupon it would result in constructions to be raised over the subject plot, rather untenably being insisted to be raised without the sanctioned plans.

13. Even if assumingly, the initial allottee was required to be obtaining sanctions vis-a-vis the building plans, from the competent authority concerned, which she may not have done, thereupon the respondent concerned, was required to, before the elapsing of period of five years, thus ensure that a reminder becomes made upon her, so that thereafter the initial allottee becoming awakend about the ill-effects of hers omitting to raise constructions over the subject plot. However, the respondent failed to do so, thereby the effect of the supra failure, on the part of the respondent, but is that, at this belated stage, the respondent concerned, cannot claim vis-a-vis the subsequent allottee, from the initial allottee, rather the charges qua non-raising of construction over the subject plot, after three years from the date of initial allotment, especially when five years have elapsed since the transfer of the subject plot being made to the vendor of the present petitioner. If the said is yet insisted upon, thereby the effect of the apposite permission, whereby the respondents are estopped, would get ill-blunted, besides would erode the valid acquisition of right, title and interest over the subject property by the present petitioner.



14. Furthermore, reiteratedly the effect of permission (supra) being granted to the initial allottee to sell the subject plot to the present petitioner, is that, the construction, if was to be raised over the vacant subject plot, and, which has been averred to have been raised upto 25%, thus was permissibly raised. Tritely, since the said fact though may be disputed but since it has been raised on an unrebutted affidavit becoming appended with the present petition. Therefore since the policy, does not emphasize, that in pursuance to the sanctioned plan, complete construction has to be raised, thus for relieving the allottee from paying non-construction charges or extension fee. Consequently, if some percentum of construction was raised on the subject plot, thereby there was no necessity at all to levy any non-construction fee upon the present petitioner. The reason for stating so becomes garnered from the factum, that it solely depends upon the financial resources of the allottee to proceed to raise construction, and, may be on account of lack of financial resources at the relevant time, that thereby the present petitioner was able to complete only 25% of the construction, and, for awaiting the garnering of more resources she was deferring to raise the apposite complete construction(s). Additionally also, when the term of the sanctioned building plan(s) has not been stated to expire. Fortifyingly, the policy conditions are not to be read in a manner so that the valid title holder becomes rendered shelterless, through exorbitant chargings of non-construction charges and in the absence of liquidation thereof, theirs passing an order of resumption.

Final order

15. Accordingly, this Court finds merit in the instant petition, and, is constrained to allow it. Consequently, the instant petition is allowed. The impugned order is quashed, and, set aside.



16. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

April 08, 2025
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No