

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

C.W.P. No.3112 of 2001 (O&M)

Date of decision: 28.01.2015

Kishan Lal

-----Petitioner (s)

V/s

**Union Territory, Chandigarh through Advisor to the
Administrator, UT, Chandigarh & others.**

-----Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA**

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

Present:- None for the petitioner.

Ms. Alka Chatrath, Advocate
for respondents.

HARI PAL VERMA, J.

Petitioner has filed the present writ petition under Articles 226/227 of the Constitution of India challenging the order dated 21.11.1990 (Annexure P2) whereby respondent no.3 has cancelled the allotment of tenement No.745, Sector 38-A, Chandigarh with forfeiture of 10% of the amount paid to the Government. Challenge

has also been laid to order dated 10.7.1991 (Annexure P3) whereby appeal against order dated 21.11.1990 has been dismissed by respondent no.2.

Briefly stated, the petitioner was allotted tenement No.745, Sector 38-A, Chandigarh comprising of one room, kitchen, latrine and bath room vide order dated 7.6.1986. The petitioner belonged to a downtrodden section of the society and thus, due to lack of regular income, could not adhere to the time schedule of the payment of lease of the site in question. Resultantly, on account of non-payment of scheduled payments, the lease of the site allotted to the petitioner was cancelled on 21.11.1990 (Annexure P2) by respondent no.3 along with forfeiture of 10% of the amount paid. The aforesaid order of cancellation of lease dated 21.11.1990 was made subject matter of challenge by way of an appeal under clause 21 of the Chandigarh Allotment of Low Cost Tenement into Lease Hold and Hire Purchase basis, Scheme, 1979. On presentation of demand draft of Rs.3,000/- in favour of the Estate Officer by the petitioner and further on his undertaking to pay the remaining outstanding amount, if sufficient time is given, the order of cancellation of tenement was set aside vide order dated 10.7.1991 (Annexure P3). While setting aside the cancellation of tenement order, it was made clear that in case the

outstanding amount is not paid within the stipulated period, the order of cancellation of the competent authority shall become operative and in the event of making full payment by the committed date, the amount of forfeiture shall be waived off. Against order dated 10.7.1991, the petitioner preferred a review petition, but as no such power of review is conferred upon the Appellate Authority under the Capital of Punjab (Development & Regulation) Act, 1952, the application seeking review was dismissed on 6.2.1998. Against the aforesaid order dated 10.7.1991, whereby appeal was dismissed as well as order dated 6.2.1998, whereby the review petition was dismissed, petitioner preferred a revision petition on 25.6.1999. However, the said revision petition was dismissed having been filed after the statutory period of 30 days, being barred by limitation.

It is in the aforesaid circumstances the petitioner has challenged the order dated 21.11.1990 (Annexure P2) whereby respondent no.3 has cancelled the allotment of tenement in question and order dated 10.7.1991 (Annexure P3) whereby appeal against order dated 21.11.1990 has been dismissed by respondent no.2.

On notice having been issued to the respondents, no reply has been filed.

On 2.3.2001, when notice of motion was issued in the case, learned counsel for the petitioner had stated that the full amount shall be tendered as and when required, accordingly, dispossession of the petitioner was stayed till further orders. Thereafter, the writ petition has been admitted vide order dated 25.4.2001 and interim order was allowed to continue.

We have perused the record.

It has been found that during the proceedings before the Lok Adalat, on 6.7.1991, counsel for the petitioner had presented a demand draft of Rs.3,000/- in favour of the Estate Officer with a further undertaking to pay the remaining amount if sufficient time is given.

Accordingly, considering the undertaking given at the time of issuing notice of motion and more particularly when respondents have not raised any objection, as even no reply has been filed, the present writ petition is accepted and the respondents are directed to calculate and communicate the outstanding amount, requiring the petitioner to deposit the same. The respondents shall also communicate the formalities, if any, required to be completed by the petitioner within one month from today. On issuance of such letter, the petitioner shall deposit the amount claimed and shall complete the formalities, if any, within one month

thereafter. In case the petitioner fails to make payment within the time granted, the order of cancellation of tenement/resumption shall become operative.

(HEMANT GUPTA)
JUDGE

(HARI PAL VERMA)
JUDGE

January 28, 2015
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