

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.13761 of 2013 (O&M)
DATE OF DECISION: 28.08.2015

Vikas Bhardwaj

....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Naveen S. Bhardwaj, Advocate for the petitioner
Mr. Rahul Dev Singh, DAG, Haryana
Mr. Deepak Manchanda, Advocate for HUDA
..

S.J. VAZIFDAR, ACTING CHIEF JUSTICE :

The petitioner has challenged an order dated 24.06.2011 (Annexure P/16) passed by respondent No.2-Chief Administrator, Haryana Urban Development Authority (HUDA) rejecting his application/representation in respect of a fresh allotment letter dated 24.02.2010 (Annexure P-13). The petitioner has in effect challenged the allotment letter dated 24.02.2010 only in so far as the fixation of the price of the plot is concerned.

2. The petitioner contends that the price of the plot must be as on the original date of allotment i.e. the year 1995 and not the present market rate.

3. A provisional letter of allotment dated 20.09.1995 was issued in favour of the petitioner in respect of an industrial plot. The tentative price of the plot was Rs.10,50,000/-. The petitioner paid the initial amount of 10% as well as the further

15% payable under the allotment letter, albeit after some delay. The balance amount had admittedly not been paid as per the letter of allotment. In view thereof, on 11.08.1987, the allotment was withdrawn.

4. The petitioner challenged the same before the appellate authority. The appeal was disposed of by an order dated 18.05.1998. The appellate authority concluded that the appellant deserves an opportunity to make the payment and to complete the formalities. The appeal was, therefore, disposed of by allowing the petitioner to make the balance payment and to complete the formalities within a period of three months from the date of receipt of the order. The petitioner by a letter dated 26.08.1998 stated that he had received the order on 28.05.1998 and that he, therefore, had to comply with the order dated 18.05.1998 by 28.08.1998. Under cover of the said letter dated 26.08.1998, the petitioner forwarded a bank draft of Rs.7.87 lacs dated 21.08.1998. It is important to note that the petitioner expressly called upon the respondents to convey the outstanding interest, if any, to enable him to pay the balance amount. The petitioner's *bona fides* at this stage, therefore, cannot be doubted.

5. It is contended before us that an amount of Rs.12 lacs was actually due as on 26.08.1998 against which the petitioner had paid a total amount of about Rs.9 lacs including the said amount of Rs.7.87 lacs. Thus, in any event, the petitioner had paid 70% of the amount even as claimed by the respondents. More important, the petitioner was obviously ready and willing to pay the balance amount, if any. He, therefore, by the said letter, requested the respondents to inform him if any amount was payable. The

respondents did not respond to the said letter. There is nothing to indicate that the petitioner would not have paid the balance amount, if any, had the same been demanded.

6. Despite the same, the Estate Officer, HUDA, by a letter dated 27.03.2000 alleged that the petitioner had failed to deposit the total amount and, therefore, the said order dated 11.08.1997 would remain in force. As we have already noted, the order dated 11.08.1997 stood merged into the order dated 18.05.1998 passed by the appellate authority which granted the petitioner time to make payment of the balance amount. The withdrawal of the allotment letter on the basis of order dated 11.08.1997 was obviously, therefore, erroneous as it had overlooked the order of the appellate authority dated 18.05.1998. Accordingly, the petitioner's appeal against the said order was remanded by the appellate authority by its order dated 10.03.2005. Upon remand, the Estate Officer reiterated the order dated 27.03.2000 only on the ground that in the meantime the plot had been allotted to a third party. He, therefore, failed to consider the case on merits as he was bound to.

7. The petitioner challenged the order dated 17.01.2006 before the Chief Administrator, HUDA, who disposed of the appeal by an order dated 30.06.2006, after considering all the facts as well as the facts pursuant to the petitioner's establishing his eligibility, holding that the petitioner could only be considered against allotment of a plot out of the available vacant plots. Taking a lenient view and on humanitarian ground, he recommended to the committee constituted for allotment of plots to take a sympathetic view in the matter of allotment of an industrial plot

as per the HUDA policy as the earlier plot had been re-allotted to a third party. The order does not really deal with the rate at which the alternate plot ought to be allotted. It gives the petitioner an opportunity of making a representation to the authorities.

8. It is not necessary at this stage to give the petitioner an opportunity to make yet another representation to the authorities. From the above facts, it is clear that the petitioner never defaulted in complying with any of the terms of allotment including as regards the payment of the amounts due in respect of the allotment. There was a shortfall. However, the petitioner had paid the major amount and had expressly inquired regarding the balance payable by him. There is no indication of an intention to avoid payment. The indications are to the contrary. The respondents never informed the petitioner as to the balance amount due.

9. The petitioner's application was rejected only on the ground that the plot allotted to him had in the meantime been allotted to another party. It is for this reason that the petitioner was allotted an alternate plot. The petitioner cannot, therefore, be prejudiced for no fault of his. He cannot, therefore, be required to pay the present market rate. That would render the findings in his favour infructuous.

We would, however, have directed the petitioner to pay the balance amount, if any, with interest @ 12 percent per annum from the date it was due for payment if the petitioner had been put in possession of the plot. However, the petitioner was not given possession of the plot. As a result, the petitioner has not had the benefit of the use of the plot whereas during this period the

respondents have enjoyed the amounts paid by the petitioner thus far.

10. The petition is, therefore, disposed of by directing the respondents to charge the petitioner the amount as per the original allotment. The petitioner shall pay the balance amount, if any, within eight weeks of the demand being served upon the petitioner.

No order as to costs.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

28.08.2015
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(TEJINDER SINGH DHINDSA)
JUDGE