

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1.)

CWP No.11912 of 2014
Date of Decision:- 12.10.2015.

Daljit Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(2.)

CWP No.23749 of 2014

Hamir Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(3.)

CWP No.12006 of 2014

Jagjit Singh and another

.....Petitioners

Versus

State of Punjab and others

.....Respondents

(4.)

CWP No.21002 of 2014

Balwinder Singh Gill

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

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

Present: Mr. C.B. Goel, Advocate for the petitioner(s).

Mr. Rajesh Bhardwaj, Additional A.G. Punjab.

Mr. Parveen Chander Goyal, Advocate for
respondent No.3 in CWP Nos.23749 of 2014.

Mr. Athar Ahmed, Advocate for
respondent No.3 in CWP No.21002 of 2014.

Mr. Baljeet Singh Sidhu, Advocate for
respondent No.3 in CWP Nos.11912 and
12006 of 2014.

SURYA KANT, J. (ORAL)

1.) This order shall dispose of CWP Nos.11912, 12006, 21002 and 23749 of 2014 as the point in issue raised in all these cases revolves around the purported non-compliance of observations made by this Court in the order dated 02.05.1997 (Annexure P-3).

2.) The facts may be noticed briefly. The petitioners were allotted residential flats in '5.53 Acre Scheme' floated by Improvement Trust, Ludhiana subject to the terms and conditions contained in allotment letters like dated 26.8.1987 and they were required to deposit the earnest money within the stipulated period. As the petitioners failed to deposit the requisite amount, no binding contract could take place between the parties. Subsequently, the petitioners were granted permission by the then Chairman of the

Trust to deposit the allotment price contrary to the terms and conditions of allotment. The decision of the Chairman to renew the allotments was, however, cancelled by the State Government after show cause notice to the petitioners.

3.) The aggrieved petitioners challenged that decision before this Court but their writ petitions were dismissed vide order dated 2.5.1997(Annexure P-3). This Court, however, further observed as follows:-

“However, in the light of the fact that some of the petitioner are in possession since long as a result of the interim stay order of this Court and have also spent a considerable amount of money in making their flats habitable, I leave it to Improvement Trust as also the State Government to consider the case of the petitioners sympathetically for re-allotment.”

4.) The Improvement Trust neither reconsidered the petitioners' claim sympathetically nor appears to have passed any order till the year 2014 when show cause notices were issued directing them to vacate the allotted flats.

5.) The aggrieved petitioners, in this second round of litigation, have claimed that the Trust Authorities are obligated to consider their claim for re-allotment and only if such claim is not accepted, that the consequential action for vacation of the flats can be taken.

6.) Sh. Sidhu, learned counsel for the Improvement Trust

maintains that the petitioners have no right to seek re-allotment as their claim has already been rejected by this Court on merits. He also relies upon a decision dated 4.8.2014 rendered by a Co-ordinate Bench where claim of one of the allottees like petitioner was turned down.

7.) We have heard learned counsel for the parties and gone through the record.

8.) This Court had admittedly observed that owing to their long possession may be pursuant to an illegal allotment, the claim of petitioners for re-allotment of flats requires sympathetic consideration. The Trust Authorities, therefore, ought to have complied with those directions and if in a given case, depending upon peculiar facts and circumstances it was so warranted, the re-allotment could be made subject to such terms and conditions as may be decided by the Trust. Nothing of course precluded the Trust Authorities to reject such claims. The fact of the matter is that the exercise in terms of observations made by this Court referred to above ought to have been undertaken but has not been undergone.

9.) In this view of the matter, we dispose of these writ petitions with the following directions:-

(i) The petitioners shall submit their respective claims for reconsideration within two weeks from the date of receipt of copy of this order;

(ii) The Chairman or Administrator of the Trust shall accord

personal hearing to the petitioners and shall pass an appropriate order in the light of the observations made by this Court on 02.5.1997, in all circumstances, before 31.12.2015.

10.) If the Improvement Trust takes a favourable decision, it shall make its recommendations to the State Government who shall then take the final decision within a period of two months from the date of receipt of such recommendations. No allotment shall however be made except at the current allotment price.

11.) Till the above stated exercise is undertaken, further action pursuant to the impugned show cause notices shall remain in abeyance.

12.) If the Trust or the State Government, as the case may be, declines the petitioners' request, the authorities shall be at liberty to proceed against them in accordance with law.

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

October 12, 2015.

sandeep sethi