

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 1229 of 2014 (O&M)
Date of Decision: 15.12.2015

Bharat Bhambi

..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.**

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

Present : Mr. Puneet Bali, Senior Advocate with
Mr. Ranjit Saini, Advocate, for the petitioner.

Mr. Rahul Dev Singh, Deputy Advocate General, Haryana,
for respondent Nos.1 and 2.

Mr. Sikandar Bakshi, Advocate, for respondent Nos.3 and 4.

S.J.VAZIFDAR A.C.J. (Oral)

The petitioner seeks a writ of certiorari to quash an order of resumption dated 07.05.2002 passed in respect of a residential plot, an order dated 28.11.2005 dismissing his appeal and an order dated 28.08.2012 dismissing the revision petition.

2. By a letter dated 27.02.1998 the respondents allotted a plot in favour of the petitioner on the terms and conditions mentioned therein. It is not disputed that the petitioner failed and neglected to pay the amounts due thereunder. As a result thereof the respondents by the impugned order dated 07.05.2002 resumed the plot in question.

3. What transpired thereafter establishes beyond doubt that the petitioner unconditionally accepted the order of resumption. The demand to revive the allotment is admittedly an after thought. It is not open to the

petitioner now to change his mind and seek the allotment afresh. The situation is changed entirely.

4. The respondents under cover of a letter dated 12.07.2002 forwarded a cheque refunding the security/earnest money in view of the order of resumption. The petitioner did not raise any protest. It is important to note that about a year and a half later the petitioner by letter dated 17.12.2003 referred to the said cheque as having been issued to him for refund against the cancellation of the plot; stated that the cheque could not be presented within the period of its validity and therefore, requested the respondents to extend the validity of the cheque upto 31.03.2004.

5. It is clear, therefore, that the petitioner accepted the order of resumption unconditionally. The respondents in turn under the cover of their letter dated 21.01.2004 issued a fresh cheque. The petitioner accepted the same unconditionally. The matter regarding resumption, therefore, stood concluded at this stage. That the petitioner returned the said cheque a month later makes no difference. The facts thus far establish that the petitioner had accepted the order of resumption and had even sought refund of the amounts deposited pursuant to the letter of allotment. Even assuming that the petitioner had any right in respect of the said plot pursuant to the letter of allotment, the same stood extinguished.

6. The petitioner had an after thought. By letters dated 25.02.2004 addressed to the Estate Officer and to the Chief Administrator, Haryana Urban Development Authority (for short 'HUDA') the petitioner admitted that he had failed to pay the installments and the enhanced compensation but stated that the same was due to back problem which continued for quite a long time. He admitted having received the notice on 07.01.2000 for payment but stated that he could not deposit the amount due to ill health and

paucity of funds which in turn he stated was on account of his illness. He stated that he had now arranged the funds and was in a position to pay the amounts due as per the letter of allotment. He, therefore, requested the respondents to set-aside the order of resumption and to restore the plot to him. He purported to return the cheque which had been forwarded by the respondents.

7. On 23.08.2004, the petitioner filed an appeal against the order of resumption dated 07.05.2002. The appeal, therefore, was filed almost two years and four months later. There was a curious co-incidence. A General Power of Attorney was executed by the petitioner in favour of a third party on 28.08.2004. It is reasonable to presume that the General Power of Attorney did not come into existence suddenly on that date and that it was pursuant to negotiations prior thereto.

8. The petitioner has not furnished details in this regard. The appeal was dismissed by the impugned order dated 28.11.2005 and a revision against the same was dismissed by the impugned order dated 10.02.2006. The impugned orders warrant no interference. A party cannot at will accept the cancellation of the allotment letter and act upon the same and subsequently seek to revive it unilaterally. There is no warrant for permitting him to invoke the equitable jurisdiction of this Court as he accepted the order of resumption unconditionally. This is admitted by the petitioner's conduct as well as by the correspondence addressed by him. The petitioner admitted having failed and neglected to pay the amount. He sought refund of the amounts deposited by him in respect of the allotment. He accepted the cheque although he did not encash it. He went a step further by requesting the respondents to extend the validity of the cheque. He admitted that he did not have the finances to pay the amount. It is obvious that the petitioner

thereafter changed his mind only because the market conditions had changed and the price of the property had increased. The petitioner was not entitled to do so.

9. Mr. Bali, learned senior counsel appearing on behalf of the petitioner stated that the petitioner was willing to acquire the plot at the market rate. He was told that the petitioner could always purchase the same in auction, if held. The petitioner, however, stated that he was not willing to pay the actual market rate but that he was willing to pay the amount at the price stipulated by HUDA for the disposal of such plots at reserve prices. That, however, would be unfair to every aspirant for the plot which would be allotted pursuant to a draw of lots. If we were to accept this request we would be placing the petitioner at an advantage over the general public which would not be justified.

10. The petition is, therefore, dismissed.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

15.12.2015
'ravinder'

(TEJINDER SINGH DHINDSA)
JUDGE