

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

CWP No.1245 of 2014

Date of decision:10.2.2015

Kanwal Singh

....Petitioner

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. S.S. Mor, Advocate for the petitioner.

Mr. P.K. Jangra, Additional Advocate General, Haryana
for respondent No.1.

Mr. Servedaman Rathore, Advocate
for respondents No.2 to 4.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to an order of cancellation of allotment on 04.04.2005 passed by Estate Officer, Haryana Urban Development Authority (for short 'HUDA'), Rewari; order passed in appeal by the Administrator, HUDA on 19.02.2007 and the order passed by the Financial Commissioner and Principal Secretary to Government Haryana, Town and Country Planning Department on 11.10.2013.

The petitioner participated in an auction of commercial sites situated at Rewari on 02.08.2004. The petitioner was a successful bidder in respect of two booth sites i.e. Booth No.153 and 154 and deposited 10% of the total sale consideration each for both the booths. The letters of allotment were issued on 31.01.2005 calling upon the petitioner to deposit 15% of the amount within 30 days as a

proof of acceptance of the terms and conditions of the allotment and the balance 75% amount in installments.

The petitioner did not deposit the balance 15% amount so as to bring a concluded contract into existence. The Estate Officer has passed an order of cancellation of allotment on 04.04.2005 but soon thereafter on 06.04.2005, the petitioner submitted a representation seeking to deposit the balance 15% amount. The plea raised was that he has not received any letter of allotment on 31.01.2005.

In appeal, learned Administrator has taken into consideration the arguments raised by the petitioner that he has not received the allotment letter. Learned Administrator found on the basis of the record produced by the Estate Officer that letters of allotment have been delivered on the address available on the file through registered post. The relevant extract from the same reads as under:-

“I have heard both the parties and examined the record pleaded before me. Admittedly, the appellant did not deposit the required 15% amount within the stipulated period of 30 days, as per condition no.4 of allotment letter. A perusal of the file and the comments of Estate Officer, HUDA, Rewari reveals that at the time of auction the correspondence address and the address given by the appellant on the bid sheets and at which the allotment letters have been issued are similar and there is no mistake in the address of the appellant mentioned in the allotment letters which have been sent through Registered post. These allotment letters which have been delivered on the correct address available on the file. Had the address was not correct the chances of the same being returned undelivered are there but allotment letters have not been received back undelivered, therefore, there is no reason to believe the arguments of the appellant regarding non-receipt of the allotment letters. Therefore, the cancellation orders passed by the Estate Officer, HUDA, Rewari are in accordance with the terms and conditions of the allotment letter, hence there is no other option

except to uphold the cancellation orders passed by the Estate Officer, HUDA, Rewari. The appeal is hereby rejected.”

Thereafter, still aggrieved, the petitioner filed a revision before the Principal Secretary to the State Government which has been dismissed on 11.10.2013 on the ground that no concluded contract came into existence in the absence of deposit of balance 15% amount.

Learned counsel for the petitioner relies upon Division Bench judgment of this Court in CWP No.3273 of 2012 titled Anil Kumar v. HUDA and others, decided on 11.10.2013, in support of his contention that on account of non-delivery of letter of allotment, the petitioner is entitled to deposit 15% of the amount. However, that was a case where the allotment letter was returned undelivered. Since the letter of allotment was undelivered, the conclusions drawn by Division Bench of this Court cannot provide any assistance to the petitioner in whose case, the address mentioned in the letter of allotment and the bid sheets is the same as on the registered letter sent to him. The registered letter has not been returned undelivered. The registered letter sent to the addressee carries presumption of delivered in terms of Section 27 of General Clauses Act, 1897.

Therefore, the vague assertion that the petitioner has not received the letter of allotment is not sufficient rebuttal of the presumption under Section 27 of the General Clauses Act, 1897.

Similar view in respect of consequences of failure to deposit the balance 15% amount has been taken by Hon’ble Supreme Court in Chaman Lal Singhal v. Haryana Urban Development Authority & Others, 2009(4) SCC 369 and Greater Mohali Area Development Authority and others v. Manju Jain and others, (2010) 9

SCC 157 and later by this Court in CWP No.17297 of 2013 titled Sonu Kapoor v. State of Haryana and others, decided on 12.09.2014, in which one of us was a member (Hemant Gupta J.), wherein it has been held that the letter of allotment is only an offer which needs to be accepted by depositing 15% of the price of the plot. Since 15% of the price of the plot has not been remitted, no concluded contract comes into existence.

In view thereof, we do not find any merit in the present writ petition. The same is dismissed.

(HEMANT GUPTA)
JUDGE

FEBRUARY 10, 2015
‘D. Gulati’

(HARI PAL VERMA)
JUDGE