

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

**CWP No. 13473 of 2015
Date of decision: 09.07.2015**

Rama Dahiya

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Rakesh Gupta, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. The petitioner seeks setting aside of orders dated 14.5.2015 and 12.12.2012 dismissing her revision & appeal and the order dated 9.6.2015, evicting her from the premises, Annexures P.8, 7 and 9 respectively. Further prayer has been made for staying the dispossession of the petitioner during the pendency of this petition.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Respondent No.5 – Sham Lal was allotted H.No. LIG 5242, Phase II, Urban Estate, Patiala by the respondent department. The possession of the said house was delivered to respondent No.5 by the respondent department vide letter dated 8.8.1997. Thereafter, respondent No.5 entered into an agreement to sell on 5.11.1998 for sale consideration of ₹ 67,000/- with the petitioner with regard to the said house and issued receipt dated 5.11.1998. At the time of execution of the agreement to sell, the vacant possession of the house was handed over to

the petitioner by respondent No.5 and since then the petitioner alongwith her family is living peacefully in the above said house. As per the terms and conditions of the agreement, the remaining installments of the house were to be paid by the petitioner directly to the respondent department for the transfer of the house in her name. The petitioner had paid some of the installments of the house but in the name of the original owner. The allotment of the said house had already been cancelled by the authorities vide letter dated 11.8.2006. Since the petitioner was not well during the last so many years, her husband and son moved an application on 16.11.2006 to respondent No.4 for transferring the house in the name of the petitioner from the original owner i.e. respondent No.5. The petitioner approached respondent No.4 many times personally for transferring the said house but in vain. She filed a suit for mandatory injunction directing respondent No.5 to get transferred the house to her name. The same was also dismissed. Vide order dated 29.12.2011, Annexure P.3, respondent No.4 passed ejectment order. Aggrieved thereby, the petitioner filed CWP No.5481 of 2012 in this Court, which was disposed of vide order dated 23.3.2012, Annexure P.4 relegating the petitioner to her remedy to file an appeal against the impugned order. Thereafter, the petitioner filed appeal, Annexure P.5 under section 48 of the Punjab Regional & Town Planning and Development Act, 1995 (in short, "the Act") before the Secretary, Punjab Urban Planning and Development Authority, Chandigarh. Respondent No.2 passed order dated 24.7.2012, Annexure P.6 that since the power to hear the appeal against the order dated 29.12.2011 had already been withdrawn, the petitioner was directed to file appeal before the Additional Administrator, PUDA, Patiala respondent No.3 within 10 days. The petitioner filed appeal

dated 1.8.2012 before respondent No.3 which was also dismissed vide order dated 12.12.2012, Annexure P.7 with the observation that the petitioner was not the original allottee and that she had no power of attorney of the original allottee. The petitioner filed revision petition before respondent No.2 against the order dated 12.12.2012 which was dismissed vide order dated 14.5.2015, Annexure P.8 with the observation that as per law after issuing the eviction order, appeal filed by the petitioner having been dismissed, the revision petition was not maintainable. The petitioner also approached the Chief Secretary, Punjab through representation under Section 45(8) of the Act but the same was dismissed. Ultimately, the Estate Officer passed order dated 9.6.2015, Annexure P.9, directing the petitioner to vacate the premises within 15 days. Hence the instant writ petition.

3. We have heard learned counsel for the petitioner.

4. The writ petition is meritless for more than one reason. It is the admitted position that the petitioner had purchased the property from respondent No.5 after resumption. She is not the original allottee. Even the order of resumption has not been challenged by the petitioner. The resumption order having attained finality, no right accrues in favour of the petitioner. The petitioner – subsequent vendee cannot derive better right than that of the original owner. Further, the dispute is between the petitioner and respondent No.5. It was upto the petitioner to make proper verification before purchasing the property. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

July 09, 2015

(Rekha Mittal)
Judge

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