

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 14341 of 2015
Date of Decision: 20.7.2015

Surinder Singh

---Petitioner

versus

**Special Secretary Department of Housing and Urban Development and
others**

---Respondent

Coram: Hon'ble Mr. Justice Ajay Kumar Mittal
Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. R.C.Chaudhary, Advocate
for the petitioner

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

Rekha Mittal, J.

The petitioner has invoked jurisdiction of this Court under Article 226 of the Constitution of India seeking quashing of orders dated 15.4.2013 (Annexure P-3), dated 24.7.2013 (Annexure P-5) and dated 12.2.2015 (Annexure P-6) whereby 10% of price of booth Nos. 411 and 412 with interest and penalty has been forfeited while accepting the application for surrender of aforesaid booths.

2. Some of the facts relevant for disposal of the present petition are that the petitioner purchased in auction booth Nos. 411 and 412 Sector 70 Mohali on 21.11.2011 for ₹41,50,000/- and ₹45,00,000/- respectively. The allotment letter was issued vide Memo No. 650 dated 9.7.2012. The

petitioner paid first instalment of the aforesaid booths to the tune of ₹11,37,650/- and ₹ 12,48,750/- on 12.12.2012. The petitioner filed an application on 26.2.2013 for surrender of booths due to financial hardship. The Estate Officer accepted the application but subject to forfeiture of 10% of price with interest and penalty vide letter No. 7689 dated 15.4.2013 (Annexure P-3). The appeal and revision preferred by the petitioner against the order of Estate Officer were dismissed.

3. Counsel for the petitioner contends that the order passed by the Estate Officer in regard to forfeiture of 10% of the total price of the booths with interest and penalty affirmed in appeal and revision is discriminatory in nature and liable to be set aside. In the case of Satinder Singh son of Harchand Singh in respect of surrender of plot No. 4001-C, Sector 68, Mohali, the Estate Officer forfeited only 2% of the total amount of the plot with interest which was further reduced to 0.25% by the Additional Chief Administrator in appeal. He has further relied upon surrender of property by one Harpal Singh in whose case the amount of forfeiture was reduced from 10% to 4% and writ petition No. 7907 of 2010 filed by the Estate Officer against the order of the Government was dismissed on 8.11.2011. In this context, reference has been made to the judgment of this Court “**The Estate Officer, GMADA and another vs. Harpal Singh and another 2015 (5)RCR(Civil)175.**”

4. We have heard counsel for the petitioner and perused the records.

5. Counsel for the petitioner is not in a position to contend that the order passed by the authorities in regard to forfeiture of 10% of the total

price is violative of terms and conditions of letter of allotment or/and Section 45(3) of the Punjab Regional and Town Planning and Development Act, 1995(in short “Act of 1995”). The Chief Administrator, GMADA Mohali while dismissing the appeal preferred by the petitioner had noticed that when the sites are put to auction, the bidders hammer bid to increase price in the market. The surrender of site without any reason by the bidders gives bad impression and putting site for auction again and again, the value of the site in the area is diminishing and development of the area falls back to the wall. Similarly, the revisional authority refused to interfere in the order passed by the Estate Officer, affirmed in appeal, being in consonance with condition No. 5 of the letter of allotment and Section 45(3) of the Act of 1995.

6. The petitioner has relied upon two orders passed in the cases of Harpal Singh and Satinderjit Singh wherein the allottee was allowed to surrender the site and the amount forfeited was less than 10%. Firstly, any order passed by an appellate or revisional authority in the peculiar facts and circumstances of a case can neither be treated as a precedent nor can form basis to challenge the impugned order on the ground of discrimination more particularly in the circumstances that counsel for the petitioner is unable to draw parity with those cases in the context of factual background. In the case of Harpal Singh, the allottee surrendered site vide application dated 20.4.2009. It is not plea of the petitioner that market conditions of real estate in the year 2009 were the same as it were in the year 2013. This apart, the revisional authority had noticed that the auctioned property is with the GMADA and GMADA utilised 10% of the forfeited amount for

more than 1 ½ years. In the case at hand, the sites in question were not with GMADA but with the petitioner when he voluntarily offered to surrender the booths, may be, due to slump in the real estate market in the year 2013. Similarly, in the case of Satinderjit Singh son of Harchand Singh, the property was surrendered way back in the year 2001 and as per stand of the allottee, he suffered some health problem and needed money for his medical treatment. Under these circumstances, the petitioner cannot substantiate his plea that he has been treated discriminately viz-a-viz others.

7. In view of what has been discussed hereinabove, we do not find any jurisdictional or factual error in the orders impugned as would call for intervention.

8. Dismissed in limine.

(Rekha Mittal)
Judge

(Ajay Kumar Mittal)
Judge

20.7.2015

PARAMJIT