

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

CWP-1659-2014

Date of decision:- 19.08.2015

Surender Chhikara

...Petitioner

Versus

Haryana Urban Development Authority, Panchkula and another

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Anirudh Kush, Advocate,
for the petitioner.

Mr. Atul Aggarwal, Advocate,
for the respondents.

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S.J. VAZIFDAR, A.C.J. (ORAL)

The petitioner was allotted a plot of land as evidenced by the allotment letter dated 08.05.2006. The petitioner's grievance since the year 2008 has been that the plot had not been developed. He, therefore, sought refund of the amount of about ₹ 43,22,000/- deposited by him with the respondents being part payment. The petitioner has not paid the balance installments on the ground that the property had not been developed.

2. The petitioner filed an application before the State Consumer Commission for refund of the said amount. The petitioner's application was dismissed. The petitioner's appeal against the same was also dismissed. It was held that the petitioner was not a consumer. It is in these circumstances that the petitioner has filed this petition.

3. During the pendency of this petition, the respondents addressed a letter dated 17.02.2014 intimating the petitioner that if he wants to still surrender the plot, he must submit the original allotment letter and the

original receipts. The letter further states that the refund will be made subject to a policy dated 07.05.1999. The petitioner's apprehension is that the respondents would deduct 10% of the entire amount as per the policy. The petitioner's case is that the respondents are not entitled to deduct any amount as the plot had never been developed as promised by the respondents.

4. It is difficult at least at this stage in a petition under Article 226 of the Constitution of India to decide whether the plot had been developed or not. Mere perusal of the photographs would not be sufficient. For instance, certain development works may not be visible. The respondents must in the first instance consider the petitioner's application for refund. If the respondents intend deducting any amount, they shall do so only after affording the petitioner an opportunity of being heard and producing any evidence in support of his contentions including that the plot had not been developed and that, therefore, it would be unfair to deduct any amount under the policy. The respondents shall furnish reasons in the event of the order/response being adverse to the petitioner to any extent.

5. The petition is accordingly disposed of.

All the contentions are kept open including for instance the respondents' contention that even assuming that the plot was not developed, the amount would have to be deducted as per the policy. The respondents are directed to take a decision in the matter within eight weeks from today.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

19.08.2015
Amodh