

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

CWP No.17349 of 2014
Date of decision: 11.08.2015

Ramesh Chand Nain

----Petitioner

Versus

State of Haryana and another

-----Respondents

**Coram: Hon'ble Mr. Justice S.J. Vazifdar, Acting Chief Justice
 Hon'ble Mr. Justice Harinder Singh Sidhu**

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

Present: Mr. V.K. Jain, Sr. Advocate with
 Mr. Ravi Kadyan, Advocate
 for the petitioner.

Mr. Deepak Balyan, Addl. A.G., Haryana.

Mr. Atul Aggarwal, Advocate
for respondent No.3.

S.J. VAZIFADAR, A.C.J. (Oral)

The petitioner has challenged the order dated 23.07.2014 (Annexure P-5) passed by the Estate Officer-respondent No.2 refusing to condone the delay in depositing 15% of the amount payable in respect of allotment of a plot in his favour by respondent No.1-Haryana Urban Development Authority (HUDA).

2. The petitioner had applied for allotment of a plot along with 10% of the amount on 04.03.2010. By a letter dated 15.05.2012, the petitioner was informed that he had been allotted the said plot on free-hold basis and as per the provisions of the Haryana Urban Development Authority Act, 1977 and the Rules/Regulations made thereunder, the petitioner was required to accept the allotment and to pay 15% of the price within 30 days.

Admittedly, the letter was not forwarded to the petitioner. The

respondents admitted that the letter was forwarded instead to the Bank from whom the petitioner had taken a loan. According to the petitioner, the Bank forwarded the allotment letter only on 09.10.2012. It is difficult in the writ petition to decide the controversy as to whether the letter was given to the petitioner or not by the Bank. However, considering the facts and circumstances of the case, it is also difficult to believe that the petitioner would not have paid 15% amount in respect of 200 sq. yards, if he had known about the allotment letter. There is nothing to indicate that the petitioner was not in a position to pay the amount or that the petitioner had deliberately refused to do so. Respondent No.2 claims to have forwarded a letter dated 29.05.2012 to the petitioner stating that the allotment letter had been forwarded to the Bank. The petitioner denies having received the letter. It is difficult to believe that if the petitioner had received the letter he would not have made the payment of the said amount. It is true that even after receipt of the letter on 09.10.2012, there was further delay in depositing 15% amount as the same had been deposited on 29.01.2013. This delay however is not of such a nature as to deprive the petitioner of such a valuable right.

4. In view of the order and judgment of this Court in **Haryana Urbana Development Authority Vs. Nikhlesh Yadav and others** (CWP No.5227 of 2012 decided on 18.12.2012), we have decided to condone the delay. In the facts and circumstances of the case, we see no reason not to exercise our extra-ordinary jurisdiction to condone the delay on certain terms and conditions. The petitioner is willing to pay the current reserve price fixed by HUDA for similar plots. The statement is accepted. Accordingly, this petition is disposed of by quashing and setting aside the order dated 23.07.2014 (Annexure P-5) passed by Estate Officer, HUDA, Karnal.

5. The petitioner shall be entitled to the benefit of allotment letter dated 15.05.2012 on the condition that the current reserve price fixed by the HUDA in respect of a similar plot as mentioned in the allotment letter shall stand substituted or upon paying all the installments upto date with 18% interest from the date on which the installments were payable till payment, whichever is higher within 60 days of being informed in writing by respondent No.2 as to the amount payable by the petitioner. The petitioner has no objection to this order.

6. The communication of this decision/option shall be forwarded to the petitioner personally as well as to the petitioner's Advocate on record in this matter.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

11.08.2015
Atul