

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

[1] Civil Writ Petition No.23196 of 2014
Date of Decision: September 08, 2015

Bachittar KaurPetitioner
versus
State of Punjab and othersRespondents

[2] Civil Writ Petition No.7299 of 2015

SikanderPetitioner
versus
State of Punjab and othersRespondents

[3] Civil Writ Petition No.7539 of 2015

Baldev SinghPetitioner
versus
State of Punjab and othersRespondents

[4] Civil Writ Petition No.6434 of 2015

Smt.Usha ViridiPetitioner
versus
State of Punjab and othersRespondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE JASPAL SINGH.

Present: Mr.Naresh Kaushal, Advocate,
Mr.(Dr.) Surya Parkash, Advocate, and
Mr.Aakash Singla, Advocate,
for the petitioner(s).
Mr.Nitini Kaushal, Advocate,
for respondent Nos.2 to 4.

- 1· Whether Reporters of Local papers may be allowed to see the judgment?
- 2· To be referred to the Reporters or not?
- 3· Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

This order shall dispose of Civil Writ Petition Nos.23196 of 2014 and 7299, 7539 & 6434 of 2015 as common questions of law and facts are involved in these cases. The solitary question that arises for consideration is whether the delay beyond 180 days in depositing 15% of the allotment price as stipulated in the Letter of Intent issued in favour of petitioner(s) could be condoned and whether such payment offered by them after a period of one year or so, could be accepted?

For brevity, the facts are being extracted from CWP No.23196 of 2014.

[2] The petitioner being successful in draw of lots, was offered allotment of a residential plot measuring 125 square yards in Aero City, SAS Nagar Mohali vide Letter of Intent dated 21.03.2011. As per the terms and conditions, the petitioner was required to deposit 15% of the allotment price to make it 25% (as 10% had already been deposited), within a period of 30 days from the date of issuance of the Letter of Intent. In this manner, the aforesaid amount was to be deposited by 20.04.2011.

[3] A day before the last date, the petitioner submitted an application dated 19.04.2011 (P-1) to the Estate Officer, GMADA requesting to extend the time on the ground that “my husband Ravinder Singh is bitten by a stray dog. Sir, our financial condition was not good. Sir, my husband is not well till date, sir we cannot in a position to pay the installment. I attached all document copy with this letter. Kindly give me some time. I give the amount with penalty after some time..”

[4] Thereafter also, the petitioner claims to have made representations with similar request.

[5] The petitioner admittedly did not deposit the 15% amount for more than a year. GMADA then issued the show cause notice dated 27.04.2012 (P-8) giving an opportunity of hearing to her before the amount already deposited by her could be forfeited.

[6] The petitioner in her reply dated 29.05.2012 (P-9) added some more grounds including that she was injured in an accident on 05.05.2011 due to which “she was on complete bed rest for almost 8 months...” and that her husband had been visiting the GMADA office repeatedly and they told him that due amount including penalty would be informed.

[7] The Estate Officer, GMADA, vide order dated 20.07.2012 (P-10) cancelled the Letter of Intent and forfeited the earnest money of RS.1,50,000/- deposited by the petitioner.

[8] The petitioner filed an appeal and then a revision petition before the State Government but both were turned down.

[9] The aggrieved petitioner has approached this Court with a plea that the 15% amount has since been deposited on 28.07.2012 alongwith penal interest. Such a contention was raised before the Revisional Authority also but did not impress that Authority.

[10] It is undeniable that PUDA has formulated a policy decision dated 20.08.2002 which equally applied to GMADA also. As per the said policy-decision, the Chairman of the Authority can condone the delay upto 6 months “from the expiry of prescribed period in allotment letter” alongwith

surcharge leviable on 15% amount at the rate of 3% of the amount due.

[11] It is also an admitted fact that amount deposited by the petitioner was much beyond the period of six months also.

[12] We have heard learned counsel for the parties and gone through the record.

[13] It appears to us that the policy-decision dated 20.08.2002 prescribing the extent of discretion which may be exercised by various authorities, i.e., the Estate Officer to Chairman of the respondent-authority in the matter of condonation of delay, is fair, just and reasonable as it not only enables the Authority to condone the delay upto a reasonable extent wherever it is so warranted in the facts and circumstances of a case and at the same time, it does not confer unguided or unlimited discretion within the Authority.

[14] Unfortunately, the petitioner failed to deposit the due amount not only as per the Letter of Intent but also within the maximum time limit given in the policy-decision.

[15] In these circumstances, per se the action of the authorities does not call for any interference by this Court.

[16] Having held that, it further appears to us that if in a given case the allottee could not deposit the due amount due to some exceptional circumstances and the authorities are fully satisfied with the reasons which prevented such allottee to honour his part of contract, the Competent Authority ought not to feel helpless in doing complete justice. In a peculiar or exceptional situation, the policy may not be construed like a statute. The makers of the policy, if they are so satisfied, would be well within their right to condone the delay even beyond 6

months provided that a very strong case on facts is made out. Once the Competent Authority is satisfied that non-interference will defeat the cause of fairness, equity and justice, it need not tie down itself with the time limit prescribed through an executive order.

[17] The so called explanation given by the petitioner and as available on record, surely does not make out it a case of circumstances where the Authority should be persuaded to condone the delay beyond 6 months. Nevertheless, we grant them liberty to approach the Special Secretary, Government of Punjab, Housing and Urban Development Department, and make out a case of strong and exceptional circumstances to seek condonation of delay beyond six months and/or to make out a case for the reduction of forfeited amount.

[18] Ordered accordingly.

[19] Dasti.

[SURYA KANT]
JUDGE

September 08, 2015
mohinder

[JASPAL SINGH]
JUDGE

206 CWP No.23196 of 2014

- - -

Bachittar Kaur versus State of Punjab and others

Present : Mr.Naresh Kaushal, Advocate,
for the petitioner.
Mr.Nitin Kaushal, Advocate,
for respondent Nos.2 to 4.

* * *

Written statement filed on behalf of respondent
Nos.2 to 4 is taken on record.

[SURYA KANT]
JUDGE

September 08, 2015
mohinder

[JASPAL SINGH]
JUDGE