

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO.23447 of 2015

DATE OF DECISION: DECEMBER 08, 2015

Ram Lal Bhateja son of late Smt.Dault Bai Bhateja.....Petitioner

Versus

Haryana Urban Development Authority and others
.....Respondents

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

Present: Dr.Surya Parkash, Advocate for the petitioner.

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TEJINDER SINGH DHINDSA, J.

Petitioner seeks the issuance of a writ of mandamus to direct the respondent-HUDA Authorities to deliver to him possession of a residential plot.

2. It has been averred that mother of the petitioner was allotted residential plot No.11-P, Sector 6, Dharuhera, Tehsil and District Rewari ad-measuring 420 sq.yds. vide allotment letter dated 18.5.1990 for a total sale-consideration of ₹1,79,498/-. A sum of ₹1,08,956.50P was deposited till 28.9.1992. Balance payment was not made as mother of the petitioner was not keeping good health. On 15.12.1992, an application was submitted to the Estate Officer concerned to surrender the plot.

Pending decision on such application, mother of the petitioner

unfortunately expired on 27.1.1993. Re-allotment letter dated 9.1.1995 for the plot in question was issued in favour of the petitioner. The outstanding dues having not been paid, notices were served upon the petitioner under Section 17 of the Haryana Urban Development Authority Act, 1977 (for short 'Act 1977') contemplating the imposition of penalty as also resumption. In response, the petitioner took a stand that he was not in a position to make the outstanding payment towards the plot and prayed for surrender and refund of the amount that had already been deposited. Having evoked no response from the respondent-Authorities, complaint was filed on 13.2.2001 before the District Consumer Disputes Redressal Forum, Rewari seeking refund of an amount of ₹1,08,956.50P along with interest. Complaint was dismissed on 30.10.2003. Appeal having been preferred under Section 15 of the Consumer Protection Act, the same was accepted by the State Consumer Disputes Redressal Commission, Haryana vide order dated 25.7.2005 and the HUDA Authorities were directed to refund a sum of ₹1,08,956.50P to the petitioner along with interest @ 10% per annum. The order of refund thereafter stands affirmed by the National Consumer Disputes Redressal Commission, New Delhi. Pleadings on record are that the petitioner had even filed an application before the District Consumer Disputes Redressal Forum on 30.10.2005 seeking execution of the order passed by the State Consumer Disputes Redressal Commission as regards refund of the amount indicated hereinabove. Bailable arrest warrants having been issued by the District Forum, the second respondent i.e. the Estate Officer,

HUDA, Rewari issued a cheque bearing No.061375 dated 19.1.2007 for an amount of ₹2,81,689/- towards compliance of the order dated 25.7.2005 passed by the State Commission.

3. Learned counsel for the petitioner would submit that during the course of the execution proceedings, an application had been submitted to the HUDA Authorities that he now wishes to retain the plot in question as his financial position had improved and he was ready and willing to pay the balance amount along with penalty, if any. It has been contended that the petitioner of his own accord had even deposited certain sums of money on 16.12.2005 and 2.1.2006. It has been vehemently emphasized before us that plot No.11-P, Sector 6, Dharuhera is still standing in the name of the petitioner in the records of the HUDA Authorities and as such, he is vested with the right to be given physical possession thereof and the respondents are obligated to execute the conveyance deed in his favour upon getting deposited the balance cost of the plot.

4. Having heard learned counsel for the petitioner at length and having perused the pleadings on record, we are of the considered view that the prayers raised in the present petition deserve outright rejection.

5. The petitioner all through had sought refund of the amount that the original allottee i.e. his mother had deposited. Even proceedings initiated by him under the Consumer Protection Act had culminated in the issuance of directions to the HUDA Authorities to refund an amount of ₹108956.50P along with interest @ 10% per annum. Such orders of refund stand affirmed

upto the National Consumer Disputes Redressal Commission, New Delhi and have since attained finality. Petitioner had even filed an application under Sections 25 and 27 of the Consumer Protection Act seeking enforcement of the orders of refund passed by the State Consumer Disputes Redressal Commission, Haryana. In such proceedings, a cheque dated 19.1.2007 for ₹2,81,689/- i.e. towards the amount deposited against the plot as also interest had been issued. An order dated 14.3.2011 passed by the State Consumer Commission, Haryana and placed on record as Annexure P24 would reveal that the petitioner had filed yet another complaint before the District Forum seeking directions to the HUDA Authorities to accept the balance sale price of the plot in question and to execute the conveyance deed in his favour. Even such complaint was dismissed by the District Forum and even appeal preferred by the petitioner has been declined vide order dated 14.3.2011.

6. In view of the facts obtaining, prayer seeking possession of the plot cannot be accepted. We are convinced that the present petition is nothing but a brazen attempt to secure allotment of a residential plot in the current year and at the price prevailing in the year 1990 i.e. the point of time when the plot was originally allotted in favour of his mother. The proceedings have been initiated solely with a speculative intent. We find that the petition is completely devoid of merit and merits dismissal.

7. It would be apposite to take note that after re-allotment of the plot in the name of the petitioner in the year

1995, proceedings were initiated by the respondent-Authorities under Section 17 of the Act 1977 for imposition of penalty as also resumption of the plot. Admittedly, the petitioner chose not to deposit the outstanding dues. Curiously, the respondents did not take the proceedings initiated under Section 17 of the Act 1977 to the logical end. It is also intriguing that after having complied with the order dated 25.7.2005 passed by the State Consumer Disputes Redressal Commission, Haryana and having issued a cheque towards refund of the amount deposited along with interest @ 10% per annum, the name of the petitioner still stands recorded as owner of the plot in the records. The reason for such state of affairs is not difficult to hazard. While dismissing the petition, we note the observations contained in the order passed by the District Forum that it is a case of collusion and connivance between the complainant (present petitioner) and certain officials of the HUDA-Authorities. In the facts of this case, an inquiry must be conducted by the Administrator of HUDA into the matter and if necessary take action against the erring officials.

8. Writ petition is dismissed.

(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

DECEMBER 08, 2015
SRM

Note: *Whether referred to Reporter? (Yes/No)*