

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

CWP No.26953 of 2014

Date of decision:12.1.2015

Avtar Singh

....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Surinder Singh Siao, Advocate for the petitioner.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to an order passed by the Secretary, Department of Housing and Urban Development, Punjab, Chandigarh on 03.06.2014 dismissing the revision filed by the petitioner against the order dated 30.07.2010 whereby the Estate Officer, Patiala refused to extend the period of deposit of 15% of the total sale consideration.

The petitioner applied for a plot measuring 450 square yards on deposit of Rs.2,92,500/- i.e. 10% of the tentative cost in a residential township project PDA -Omaxe City. A letter of allotment allotting plot No.H-82 was issued on 03.06.2009. The petitioner was called upon to pay a sum of Rs.4,38,750/- within a period of 30 days representing 15% of the total sale consideration with a view to accept the offer of allotment of plot. However, on 24.06.2009, the petitioner made a request for extending the period of deposit of 15% of the total amount for the reason that he has not been able to arrange funds. The relevant extract from the said letter reads as under:-

“3. In view of the pathetic condition narrated above, your good self is requested to grant me at least one month more beyond 2.7.09 and entire schedule of making payments may kindly be revised at the earliest. Your good self is competent to grant this extension in view of the policy decision taken by the Punjab Urban Development and Planning Authority, Mohali vide its letter No.PUDA-Policy-02/6141-52, dated 20.8.02.”

Considering the said request, the time for deposit was extended for one month vide communication dated 08.07.2009/27.07.2009 but it was on 08.09.2009, the petitioner submitted another request for extension for two months for the reason that he could not arrange 15% amount to deposit. Such request was declined on 11.09.2009, inter alia, for the reason that extension in deposit can be given only in exceptional circumstances whereas the petitioner has not indicated any reason for extension of more time. The petitioner filed an appeal against the said order which came up for hearing before the Additional Chief Administrator, Patiala on 05.02.2010. The same was allowed with the following observations:-

“Therefore, in exercise of powers conferred to me u/S 45(5) of Punjab Regional Town Planning and Development Act, 1995, I accept the appeal of the applicant. With regard to cancellation of allotment order of Estate Officer dated 11.09.2009, I reject the same, and the allotment cancelled, I restore the same on the condition that the Estate Officer with regard to condonation of delay will prepare the case and will send for the approval of the competent officer. If the competent officer will not condone the delay of 15% then the appellant will have no right on the plot and order of the Estate Officer dated 11.09.2009 regarding cancellation of plot will stand.”

In pursuance of such direction, the Estate Officer again passed an order on 30.07.2010 declining to condone delay of 218 days. It was reported that the right for condoning the delay of more

than six months was not available with the Head Office. Therefore, the order passed by the Estate Officer, earlier on 11.09.2009 was maintained and refund of 15% amount deposited by the petitioner was ordered to be made. The said order was challenged by the petitioner by way of a revision petition which was allowed but set aside in CWP No.9950 of 2013 titled The Additional Chief Administrator v. Avtar Singh vide order dated 07.03.2014 and the matter was remitted back to the revisional authority for fresh consideration. It is, thereafter, the revision has been dismissed on 03.06.2014, the order impugned in the present writ petition, with the following observations:-

“I have heard the Law Officer of the respondents at length and have also perused the written statement arguments/claims advanced by both the parties. The petitioner should have paid the amount as per schedule given in the allotment letter. Now, the price of plot is increased by few lakhs. It is evident from the record and as well as detailed discussion narrated above the petitioner is at fault and hence, I have found no reason to interfere in the order dated 11.9.2009 passed by the Estate Officer, PUDA, Patiala and consequent order dated 30.7.2010. The Estate Officer, P.D.A./PUDA, Patiala is directed to dispose off the site in the interest of the authority. Keeping in view the totality of circumstances, the Revision Petition filed by the petitioner is hereby rejected.”

Learned counsel for the petitioner has vehemently argued that the petitioner was given only 4 days' time to deposit the 15% of the amount while accepting the request of the petitioner for extension of time dated 24.06.2009 as the same was dispatched only on 27.07.2009. Therefore, in the absence of sufficient time granted to the petitioner, the adverse consequence drawn by the respondents is not sustainable in law.

We do not find any merit in the argument raised. The petitioner was aware of the fact that he has to deposit 15% of the amount within 30 days i.e. on or before 02.07.2009. He could not deposit the amount for the reason that he has no financial resources. He requested for extension of one month alone. He should have been vigilant enough to arrange for the funds for deposit within one month as per his request. Therefore, even if the communication has been dispatched on 27.07.2009, it will not make out a case for granting more time to the petitioner for depositing the amount.

Learned counsel for the petitioner could not refer to any policy which empowers any of the authorities under the statute to condone delay of over six months as observed by learned Estate Officer. Still further, there is no exceptional circumstance disclosed by the petitioner to seek extension in deposit. The financial constraints is not an exceptional circumstance as the petitioner was aware when he applied for a plot that he has to deposit not only 15% within 30 days but the remaining installments as well.

Similar view in respect of consequences of failure to deposit the balance 15% amount has been taken by Hon'ble Supreme Court in Chaman Lal Singhal v. Haryana Urban Development Authority & Others, 2009(4) SCC 369 and Greater Mohali Area Development Authority and others v. Manju Jain and others, (2010) 9 SCC 157 and later by this Court in CWP No.17297 of 2013 titled Sonu Kapoor v. State of Haryana and others, decided on 12.09.2014, in which one of us was a member (Hemant Gupta J.), wherein it has been held that the letter of allotment is only an offer which needs to be accepted by depositing 15% of the price of the plot. Since 15% of the

price of the plot has not been remitted, no concluded contract comes into existence.

In view of the judgment in Sonu Kapoor's case (supra) following the judgments of Hon'ble Supreme Court in Chaman Lal Singhal's case (supra) and Manju Jain's case (supra), we do not find any merit in the present writ petition.

Dismissed.

(HEMANT GUPTA)
JUDGE

JANUARY 12, 2014
'D. Gulati'

(HARI PAL VERMA)
JUDGE