

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

**CWP No.3855 of 2015
Date of decision: 15.7.2015**

Ved Pal Dhull

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Mandeep Singh Khillan, Advocate for the petitioners
in CWP Nos. 3855 and 4670 of 2015.

Mr. Sudeep Mahajan, Addl.A.G.Haryana.

Ajay Kumar Mittal,J.

1. This order shall dispose of CWP Nos.3855 and 4670 of 2015 as the issue involved in both the petitions is identical. However, the facts are being extracted from CWP No.3855 of 2015.

2. In CWP No.3855 of 2015, the petitioner prays for quashing the circular dated nil Annexure P.6 posted on the official website of respondent No.2 and for making reduction in the amount of earnest money. Further prayer has been made to pay the interest if any charged by the respondent Bank from the petitioner on account of delay in the draw of lots w.e.f 30.11.2014 till the date of the draw.

3. A few facts relevant for the decision of the controversy

involved as narrated in the petition may be noticed. The petitioner is a practicing advocate at Karnal. Respondent No.2 – Haryana Urban Development Authority (HUDA) invited applications from general public for allotment of 1135 free hold residential plots in Sectors 32 (Part) and 33 (Part) in Karnal in Haryana in different segments and categories as per reservation code assigned to each category including reservation under the category of Advocate i.e. 'ADVOC' and sub category 'MEZON' (Advocate reserved category). The booking was to commence on 12.3.2014 and close on 27.4.2014. Respondent No.2 made available the application forms at the counters of various banks authorized by it. The petitioner being an advocate vide application No.36854 applied for allotment of a plot of 14 marlas under the category 'ADVOC' reserved for the Advocate and got the earnest amount financed through the respondent-Oriental Bank of Commerce, respondent No.4. Various other Advocates also applied for plots in the reserved and sub reserved categories. Respondent No.2 as per directions of the Apex Court dated 16.8.2013 informed the general public in its brochure that sufficient plots had been reserved for the oustees and that the draw of their category shall be held prior to all the categories of applicants. Thereafter, the petitioners came to know from the circular posted on the official website of respondent No.2 that the draw of lots which was to be held on 30.11.2014 was stayed by this court in CWP No.23952 of 2014, ***Harpreet Singh vs. Chief Administrator, HUDA, Haryana and others.*** Vide letter dated 23.12.2014, Annexure P.4, the Bank demanded additional interest on the loan amount due to the stay granted by this Court. According to the petitioner, the above said order was passed by this court considering the pleadings in the said petition to the effect that respondent No.2 without

settling the claims of the land owners/outstees whose land was acquired and without waiting for the outcome of the litigation pending before the Apex Court, invited applications for allotment of plots. The respondent authority also circulated a circular without date on its website Annexure P.6 informing that due to the stay granted in the above said writ petition, the draw had been postponed till the final orders in the said petition and in the event any applicant wish to claim his refund may do so and on doing so shall not be considered in the draw of lots and those applicants who intended to wait for the litigation to end or vacation of stay and were not interested in taking refund, shall be entitled to receive simple interest at the rate of 5.5% on the deposited amount w.e.f 1.12.2014. Hence the instant writ petitions.

4. We have heard learned counsel for the parties.

5. On perusal of the averments made in the writ petitions and after hearing learned counsel for the parties, we find that prayers (a) and (b) i.e. with regard to quashing the circular, Annexure P.6 and making reduction in the amount of earnest money, the same have become infructuous as the draw has already been held on 11.6.2015. However, a prayer has been made that the interest for the period from 30.11.2014 i.e. the announced date of draw till actual date of draw i.e.11.6.2015 which is being claimed by the Bank, be recovered from HUDA on the ground that there was stay by this court on the applications invited from the oustees and since the matter was already pending before the Apex Court, in such a situation, HUDA ought not to have invited applications alongwith earnest money. The petitioner could not be penalised for the fault of the HUDA. The said prayer has been vehemently opposed by the learned counsel for the respondents.

6. We do not find any justification in the aforesaid submission of learned counsel for the petitioner. HUDA had invited applications as per public notice Annexure P.1 with effect from 12.3.2014 whereas the interim order whereby the respondents were restrained with the process of draw of lots in respect of Sectors 32(Part) and 33(Part), Karnal, was passed on 21.11.2014, Annexure P.5. This order was, however, modified on 14.5.2015 to the effect that the draw of lots in respect of remaining 899 plots in Sectors 32(Part) and 33 (Part), Karnal on the basis of advertisement dated 5.3.2014 for allotment to general category be carried out within one month from that date. The delay in holding the draw of lots by HUDA cannot be attributed to them and, accordingly, the respondents could not be directed to pay interest for the period from 30.11.2014 to 11.6.2015 to the Bank. Consequently, finding no merit in the petitions, the same are hereby dismissed.

(Ajay Kumar Mittal)
Judge

July 15, 2015
'gs'

(Rekha Mittal)
Judge