

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

**CWP No.4340 of 2015
Date of decision: 6.4.2015**

Seoti Devi

.....Petitioner

Vs.

Haryana Urban Development Authority and others

.....Respondents

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

Present: Mr. D.S.Patwalia, Sr. Advocate with Mr. Salil Sabhlok,
Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. The petitioner through the present petition under Articles 226/227 of the Constitution of India prays for quashing the order dated 28.3.2014, Annexure P.13 passed in appeal under Section 17(5) of HUDA Act, 1977 (in short, "the Act") by the Administrator, HUDA Panchkula. Further prayer has been made for quashing the order dated 18.11.2010, Annexure P.2 vide which plot of the petitioner has been resumed on account of non construction. Still further, prayer for considering her case under the policy dated 12.4.2013, Annexure P.10 has also been made.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The Petitioner was allotted a 420 square meters residential plot in Sector 21, Panchkula vide allotment letter dated 21.7.1987, Annexure P.1. She deposited the total consideration of the plot as demanded by the respondent authority. The

possession of the plot was offered to the petitioner on 17.11.1992. According to the petitioner, she could not construct on the plot as per clause 18 of the allotment letter within two years of the date of offer of possession after getting the proposed plan approved due to her prolonged illness and family circumstances. Vide order dated 18.11.2010, Annexure P.2, the respondent authority resumed the plot for non construction under Section 17 (4) of the Act and 10% of the consideration amount was also ordered to be forfeited. The petitioner in the first instance challenged the order dated 18.11.2010 by filing CWP No.22098 of 2010 which was disposed of by this court vide order dated 13.12.2010, Annexure P.3 to enable the petitioner to file an appeal against the said order before the respondent authority. In pursuance to the order dated 13.12.2010, the petitioner filed appeal before the Chief Administrator which was also dismissed vide dated 25.5.2011, Annexure P.4. Still not satisfied, the petitioner filed CWP No.10690 of 2011 which was dismissed vide order dated 10.9.2012, Annexure P.5. The petitioner challenged the said order before the Apex Court by filing SLP (Civil) No.35800 of 2012 which was dismissed vide order dated 7.12.2012, Annexure P.6. The review petition filed by the petitioner was also dismissed vide order dated 6.2.2013, Annexure P.7. She filed Curative Petition before the Apex Court on 2.4.2013, Annexure P.8 which was dismissed vide order dated 1.8.2013, Annexure P.9. Thereafter, the respondent HUDA circulated a fresh policy dated 12.4.2013, Annexure P.10 vide which extension of time for construction of residential/commercial plots was allowed beyond the period as stipulated in the allotment letter subject to payment of extension fee. The petitioner immediately approached respondent No.2 by filing application dated 18.7.2013, Annexure P.11 to consider her case in the light

of clause (vi) of the said policy. The petitioner did not get any response. She filed application under RTI Act, 2005 through her son to know the fate of her application. Vide letter dated 24.10.2013, Annexure P.12, it was informed that the application dated 18.7.2013, Annexure P.11 had been rejected by respondent No.2. The petitioner filed appeal before the Chief Administrator, HUDA against the said order which was dismissed vide order dated 28.3.2014, Annexure P.13. Hence the instant writ petition.

3. We have heard learned counsel for the Petitioner and perused the record.

4. Learned counsel for the petitioner relying upon Clause (vi) of the policy dated 12.4.2013, Annexure P.10 submitted that since Curative Petition was pending on the date when the policy was promulgated, the petitioner was entitled for the benefit. Moreover, it was a beneficial policy and in such a situation, the benefit should not have been denied to the petitioner.

5. The moot question herein is whether the petitioner can claim benefit under the policy dated 12.4.2013. It would be expedient to reproduce Clause (vi) of the policy dated 12.4.2013, which reads thus:-

“(vi) The policy shall be applicable to all the cases where resumption orders have been passed due to non construction but the allottees/re-allottees have challenged the resumption orders and the litigation is pending in any forum. In such cases, the Estate Officer shall inform the Court/authority where the appeal of former allottee against the resumption order is pending, that the said court/Authority may dispose off the appeal in terms of the new extension policy.”

A perusal of the above clause of the policy shows that wherever appeal of former allottee against the resumption order is pending in any forum, the

said court/authority will dispose of the appeal in terms of the new extension policy. In this case, the SLP filed by the petitioner was dismissed by the Apex Court on 7.12.2012, Annexure P.6. Even the review petition filed against the said order was dismissed on 6.2.2013, Annexure P.7. However, the Curative petition was filed on 2.4.2013 which was also dismissed on 1.8.2013, Annexure P.9. The curative petition filed by the petitioner cannot be said to be an appeal or statutory remedy so as to entitle the petitioner to the benefit under Clause (vi) of the policy. Even the SLP, review and curative petition having been dismissed, no relief can be granted to the petitioner.

6. In view of the above, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

April 06, 2015
'gs'

(Rekha Mittal)
Judge