

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

**CWP No.6103 of 2015
Date of decision: 01.04.2015**

Anand Parkash Arora

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

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

Present: Mr. Anil Shukla, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. Challenge in this petition filed under Articles 226/227 of the Constitution of India is to the order dated 30.4.1992, Annexure P.5 dismissing the appeal filed by the petitioner against resumption of plot allotted to him and the order dated 3.6.2002, Annexure P.7 whereby revision petition filed against the said order had been declined. Prayer has also been made for a direction to the respondents to restore the plot in question to the petitioner.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner was allotted Plot No.956-P, Sector 8, Faridabad vide letter of allotment dated 21/23.4.1973 against total consideration price of ₹ 11,550/-. He paid the

full consideration amount. Thereafter, the respondents raised additional demand of ₹ 3500/- for the plot. The petitioner paid the said amount vide receipt dated 23.11.1981. The petitioner was employed in Indian Oil Corporation Limited. He was being transferred from one place to another. He being the employee had to seek necessary sanction of the Government for raising the construction and funds as loan for this purpose. When the petitioner arranged the money and got the requisite sanction, he approached respondent No.4 – the Estate Officer, HUDA, Faridabad for permission to raise construction. He went to the office of respondent No.4 to get possession as the same was not delivered. He came to know that the plot in question did not exist in his name and the same had been allotted to some one else. Respondent No.4 informed the petitioner that vide order dated 28.5.1985, the said plot had been resumed as the construction had not been raised by him within three years and that the same had been allotted to another person. The petitioner immediately filed appeal before respondent No.3 – Administrator, HUDA, Faridabad. Respondent No.4 took the plea that the plot after cancellation had been allotted to Shri Ghanshyam Sharma on 2.4.1986. Vide order dated 30.4.1992, Annexure P.5, the appeal was dismissed by respondent No.3. According to the petitioner, no show cause notice was served on him. Aggrieved by the order, the petitioner approached this Court by filing CWP No.653 of 1998 which was dismissed as withdrawn to enable him to avail the remedy of revision before respondent No.1 – Financial Commissioner and Principal Secretary to Government of Haryana, Town and Country Planning Department, Chandigarh. Accordingly, the petitioner filed revision petition before respondent No.1 reiterating his averments taken in the appeal. Vide order dated 3.6.2002,

Annexure P.7, the revision petition was also dismissed holding that the allottee failed to avail the appropriate remedy for restoration of the plot for a long time and it was not legally possible to restore the plot to the petitioner at that belated stage especially when the plot had already been transferred to other person. The petitioner asserts that the order dated 3.6.2002, Annexure P.7 was never conveyed to him. Even his advocate did not inform him. In the year 2012, he came to know from his counsel at Chandigarh that no case had been filed against the impugned order. Hence the instant writ petition.

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

4. A perusal of the impugned order dated 3.6.2002 Annexure P.7 shows that the plot in question i.e. No.956-P, Sector 8, Faridabad was allotted to the petitioner vide letter dated 21/23.4.1973. As per condition No.12 of the allotment letter, the allottee was required to complete construction at site within three years from the date of issue of the allotment letter after getting the building plan approved. Notices dated 6.2.1985 and 2.5.1985 under Sections 17(3) and 17(4) of the HUDA Act, 1977 were issued to the petitioner but he failed to appear before the Estate Officer. Consequently, the plot was resumed on 7.11.1985 by the Estate Officer for non-construction. The plot was thereafter allotted to some one else on 2.4.1986. The appeal filed by the petitioner before Administrator, HUDA Faridabad was dismissed vide order dated 30.4.1992 being time barred. The writ petition filed by the petitioner was dismissed as withdrawn to enable him to avail the remedy of revision before respondent No.1. The revision petition was also dismissed vide order dated 3.6.2002 by respondent No.1.

The relevant finding recorded by respondent No.1 reads thus:-

“I have heard both the parties and gone through the record of the case. It is an admitted fact that the plot was allotted to the petitioner in 1973. The same was resumed by the Estate Officer in 1985 for non construction. The allottee failed to avail of appropriate remedy for restoration of the plot for a long time. It is not legally possible to restore the plot to the petitioner at this belated stage, specially in the circumstances when the plot has already been transferred to different persons in the meantime. The demand of the allottee to allot alternate plot cannot be considered as he cannot claim the same as a matter of right. Keeping in mind the facts and circumstances of the case I find no justification to consider the claim of the petitioner at this belated stage. Consequently, the revision petition is dismissed.”

5. The allotment of the plot in question was made in the year 1973 which was resumed on 7.11.1985. The appeal was filed belatedly. Even the order passed by the revisional authority dated 3.6.2002 has been challenged by the petitioner by present petition after an inordinately long delay of about thirteen years. No satisfactory explanation has been given by learned counsel for petitioner in this regard. No material has been placed on record to substantiate the averments made in the petition for the delay. Further, the petitioner did not comply with the condition of allotment regarding construction on the plot within three years from the date of the allotment. No steps were taken by the petitioner for restoration of the plot within time. The order has been passed by the revisional authority taking into consideration the overall facts and circumstances of the case. Learned counsel for the petitioner has not been able to point out any illegality or perversity in the impugned order, which may call for interference by this

Court.

6. Accordingly, finding no merit in the petition, the same is dismissed.

(Ajay Kumar Mittal)
Judge

April 01, 2015
'gs'

(Rekha Mittal)
Judge