

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.6359 of 2015
Date of Decision: December 14, 2015

Smt.Adarsh KumariPetitioner

versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Jatin Khullar, Advocate, for the petitioner.
Mr.Rajesh Bhardwaj, Additional AG, Punjab.
Mr.Nitin Kaushal, Advocate, for respondent Nos.2 & 3.

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- 1· Whether Reporters of Local papers may be allowed to see the judgment?
- 2· To be referred to the Reporters or not?
- 3· Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

The petitioner has laid challenge to the orders dated 11.11.2003, 20.07.2006 and 27.02.2015 passed by the respondent-authorities. Vide the first order dated 11.11.2003, allotment of a small dwelling unit (Lower Income Group) Flat No.3318 (GF), Sector 70, SAS Nagar Mohali was cancelled and vide subsequent orders, the appeal and revision petition preferred by the petitioner have been turned down.

[2] The above-mentioned dwelling unit was allotted to the petitioner on 19.09.1996. She was paying the installments regularly but in the year 2002-2003, her husband got hospitalized and due to financial crunch the balance installments could not be deposited. This led to cancellation of allotment on 11.11.2003 for non-payment of Rs.22,590/-.

[3] The petitioner went in appeal and pending appeal and during its pendency, she deposited Rs.60,000/- vide bank draft dated 16.12.2005. She deposited another amount of Rs.49,000/- on 13.09.2006 and then Rs.6,000/- on 15.09.2006. These payments were duly acknowledged. The petitioner's appeal was dismissed on 20.07.2006, followed by rejection of her revision petition.

[4] The authorities have viewed that there was an inordinate delay in clearing the dues and the period between default and the actual payment was beyond the powers of condonation vested in different authorities.

[5] We have heard learned counsel for the parties and gone through the record.

[6] True it is that the petitioner committed default in payment of due installments and invited consequences like cancellation of allotment. Nevertheless, we are satisfied that it was not a case where the petitioner had defaulted willingly and deliberately. The hospitalization of her husband appears to be a genuine and convincing cause which was beyond her control. Her bonafide to clear the dues can be seen by the fact that as against the arrears of Rs.22,590/- as on 11.11.2003, she deposited Rs.60,000/- on 16.12.2005; Rs.49000/- on 13.09.2006 and Rs.6000/- on 15.09.2006.

[7] The petitioner belongs to the poor section of society. There is a small dwelling unit of lower income group allotted to her and if that unit is also snatched, she and her family would be left with no social shelter. Such a drastic consequence would not be in conformity with the very object of the Welfare Scheme of making allotment of small dwelling units to the needy persons of lower income group.

[8] While the State agencies like GMADA need not be made to suffer in financial terms on account of the delay in paying the due installments by the petitioner, they can be well compensated by way of 'interest' as well as 'penal interest'. The petitioner has expressed her willingness to pay the amount, if found due alongwith interest or penal interest.

[9] Taking into consideration the totality of circumstances and the fact that substantial payments stood made way back in the years 2005-06, we are satisfied that the last resort to resume and/or cancel the allotment of property is not warranted in the case in hand. The writ petition is accordingly allowed; the impugned orders dated 11.11.2003, 20.07.2006 and 27.02.2015 are quashed. The respondent-authorities are directed to restore the allotment; regularize the same subject to the conditions that the petitioner shall be liable to pay interest or penal interest, if any, on the belated payments and the same shall be deposited within a period of two months from the date of receipt of a notice in this regard from the respondent-authorities.

Dasti.

[SURYA KANT]
JUDGE

December 14, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE