

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

**CWP No.7603 of 2014
Date of decision: 20.5.2015**

Sanjeev Aggarwal

.....Petitioner

Vs.

**Financial Commissioner-cum-Principal Secretary to Government of
Haryana, Town and Country Planning Department, Chandigarh.**

.....Respondents

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

Present: Mr. Kul Bhushan Sharma, Advocate for the petitioner.

Ms. Palika Monga, DAG, Haryana.

Mr. Pravindra Singh Chauhan for HUDA.

Ajay Kumar Mittal,J.

1. Prayer in this petition is for quashing the impugned orders dated 29.4.2005, 25.11.2012 and 24.12.2013, Annexures P.3, P.2 and P.1 respectively, resuming Plot No.489-P Sector 37-II, Gurgaon allotted in favour of the petitioner and thereafter dismissing appeal and revision filed by him.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Vide allotment letter dated 8.6.1999, Annexure P.4, the petitioner was allotted an industrial Plot No.489-P measuring 450 square meters in Sector 37, Pace City II, Gurgaon.

The petitioner got possession of the said plot on 14.12.1998 in pursuance to provisional letter of allotment dated 15.10.1998 (Annexure R.3/2) attached with the written statement. The building plan of the petitioner qua the plot in question was sanctioned by the Haryana Urban Development Authority, Gurgaon (HUDA) on 9.2.1999, Annexure P.6. The petitioner had already paid/deposited the total amount of the price of the plot in question alongwith necessary statutory dues to the HUDA. The petitioner also got extension for the construction of the building over the plot by paying extension fee upto 7.6.2004. The petitioner's mother was also under treatment of Hypertension and Hporthyroidism at Fortis Escorts Hospital, Faridabad. The petitioner was abroad in connection with some business work in the year 2005 and after coming back to India he had intimated HUDA regarding the same. Vide letter dated 28.10.2005, Annexure P.8, the petitioner asked the HUDA authorities about the orders passed against him. In response to the said letter, Respondent No.3 vide letter dated 14.11.2005, Annexure P.9 informed the petitioner with regard to the resumption order dated 29.4.2005, in respect of the plot in question. The petitioner applied for a copy of the said order vide letter dated 22.11.2005, Annexure P.10. According to the petitioner, no notice under Section 17 of the HUDA Act, 1977 (in short, "the HUDA Act") had been served upon him. The petitioner filed appeal before the Administrator, HUDA, Respondent No.2. The said appeal was dismissed vide order dated 25.11.2012, Annexure P.2 by the Administrator. Still further, the petitioner filed revision petition under sections 17(8)/30 of the HUDA Act before Respondent No.1 which was also dismissed vide order dated 24.12.2013, Annexure P.1. Hence the instant writ petition.

3. A written statement has been filed on behalf of Respondent Nos. 3 and 4 wherein it has been inter alia stated that the petitioner was required to raise minimum 25% construction of the permissible area and go into production within a period of two years. He did not raise any construction. The petitioner had also sought extension which was allowed and even the extended period expired. In spite of that, the petitioner did not raise the construction. Even in response to the show cause notice, the petitioner did not appear before the Estate Officer. The appeal and the revision filed by the petitioner against the resumption order had also been dismissed. On these premises, prayer for dismissal of the petition has been made.

4. We have heard learned counsel for the parties.

5. It is the admitted position that the allotment of the plot in question to the petitioner in the present case was made in the year 1998. The petitioner was issued formal allotment letter on 8.6.1999. As per the terms and conditions of the allotment letter, the petitioner was required to complete the construction and implement the project within three years i.e. upto 7.6.2002 from the date of issuance of allotment letter/offer of possession but the petitioner failed to do so. The petitioner was granted extension upto 7.6.2004. Even then, he did not raise the construction on one pretext or the other. Consequently, after considering the overall facts and circumstances of the case, the resumption order was passed by the authorities on 29.4.2005, Annexure P.3. The finding recorded by the revisional authority in its order dated 24.12.2013, Annexure P.1 reads thus:-

“I have heard the arguments of both the parties and have gone through the record produced before me. It is evident from the record, as pointed out by the counsel for the

respondent that the petitioner had intimated about the change of address vide letter dated 4.5.2006 and the notices under section 17 and the resumption order (sent through registered post) were sent on the address available on record. Therefore, the plea of the petitioner that he had not received the notices and resumption order are not convincing one. The plea of the petitioner that his mother was not well does not stand any ground because she was not suffering from any chronic disease. Moreover, from the order of appellate authority, it is clear that this plea was not taken before him. Even in the grounds of appeal before Administrator, this ground was not taken. Therefore, it seems to be an afterthought. The petitioner had applied for further extension on 28.10.2005 whereas the extension granted to him had already expired on 7.6.2004. The period of extension was extended from 7.6.2002 to 7.6.2004 on the payment of extension fee. It proves that the petitioner had already been given opportunity to raise construction by extending the maximum time available for raising construction, the benefit of which could not be availed by the petitioner for which Respondent cannot be blamed. The petitioner could not produce anything to show his bonafide intention that he made honest efforts to raise construction during the period of 5 years given to him i.e. from the date of allotment/offer of possession upto the period of extension granted to him upto 7.6.2004. The purpose behind the establishment of Industrial estates/areas is to ensure rapid industrial growth on sustainable basis to achieve the twin objectives of economic development and generation of adequate employment. In order to achieve the said purpose, the industrial policy was framed by the State of Haryana under which Industrial plots are allotted at cost which are much less than the market prices. If the allottees are allowed to keep the industrial plots vacant without raising construction and implementing the projects like this, the very purpose of allotment of industrial

plots would be defeated. In view of discussion above, I do not find any merit in the case of the petitioner. Therefore, the present revision petition is dismissed.”

6. Once the building plan had been sanctioned and the petitioner was required to raise the construction which he failed to do so inspite of the grant of extension, in such circumstances, no fault can be found with the impugned order of resumption. The petitioner never made any sincere efforts for raising the construction. The bonafides of the claim of the petitioner does not stand substantiated. Reliance by the petitioner upon various orders passed by the Administrator whereby similarly situated persons had been granted extension for raising construction and resumption orders were withdrawn, does not carry any weight. From the perusal of the facts of those cases, we find that each case is distinguishable on its own facts. Consequently, the petitioner cannot derive any advantage from the orders passed in those cases. Accordingly, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 20, 2015
'gs'

(Rekha Mittal)
Judge