

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-6684-2015(O&M)

Date of decision : 01.07.2015

M/s Interface Micro Systems

... Petitioner

Versus

The State of Haryana Department of Town and Country Planning and Urban
Estate and others

... Respondents

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

Present: Mr.Kanwaljit Singh, Senior Advocate
with Mr. B.B.S. Randhawa, Advocate
for the petitioner.

REKHA MITTAL, J.

CM-6693-2015

Allowed as prayed for. Annexure P14 is taken on record subject
to just exceptions.

Disposed of accordingly.

CWP-6684-2015

The present petition filed under Articles 226/227 of the
Constitution of India lays challenge to orders dated 02.02.2000 (Annexure
P4), dated 25.04.2007 (Annexure P10) and dated 01.07.2014 (Annexure
P13) whereby provisional letter of allotment (in short 'PLA') regarding plot
No.511-P, Sector 37, Gurgaon was withdrawn and the appeal and revision
preferred by the petitioner against withdrawal of allotment letter were
dismissed.

The facts, in brief, necessary to be noticed for disposal of the petition are that the PLA in respect of industrial plot No.511-P, Sector 37, Gurgaon was issued in favour of the petitioner vide memo No.1490 dated 15.10.1998. As per terms and conditions of PLA, the petitioner was required to complete certain formalities within stipulated period of 6 months from the date of issue of PLA. The Estate Officer, HUDA, Gurgaon withdrew the PLA vide memo No.286 dated 02.02.2000 on the premise that the petitioner failed to comply with required formalities within the stipulated period. The appeal preferred by the petitioner against the order of withdrawal of PLA was dismissed by the appellate authority and the revision petition also met the same fate.

Counsel for the petitioner would contend that the petitioner had paid entire amount as per the payment schedule. The provisional registration from District Industry Centre (in short 'DIC') was received on 14.12.1998, the petitioner obtained loan from Bank of India and the respondents were informed about the same. It is argued that the petitioner should not be made to suffer for non-submission of provisional building plan as actual possession of the plot in question was never delivered to the petitioner company. It is further argued that no notice or opportunity of hearing was granted to the petitioner before passing the impugned order dated 02.02.2000 (Annexure P4) or allotment of plot in question in the name of Smt.Kanchan Gandhi. According to learned counsel, the petitioner made several representations before filing the appeal in May, 2005, therefore, failure to file the appeal immediately after receipt of order dated 02.02.2000 may not stand in the way of the petitioner to stake his claim for an

alternative allotment.

We have heard counsel for the petitioner and perused the records.

The PLA dated 15.10.1998 (Anneuxre P3) was issued in favour of the petitioner with a specific condition to comply with certain conditions within a period of 6 months from the date of its issue. There is nothing on record to suggest that prior to withdrawal of PLA vide letter dated 02.02.2000, the petitioner ever sent an intimation to authorities either with regard to issuance of provisional registration certificate by the General Manager, DIC or sanction of loan by the Bank of India.

The revisional authority, on a detailed consideration has noticed that intimation regarding issuance of provisional registration certificate was sent to PUDA vide letter dated 19.02.2000 i.e. after withdrawal of PLA by the Estate Officer on 02.02.2000 and the letter dated 07.02.2000 issued by the Bank of India does not make mention of sanction of loan which rather shows that the bank informed the petitioner to get the formalities completed so that the matter may be considered on merits. Indisputably, the petitioner never submitted provisional building plan for approval by the competent authority.

Counsel for the petitioner is not in a position to counter the observations made by the revisional authority including that the provisional building plan was to be submitted by the allottee just to have an idea of nature/type of construction the allottee wants to raise and not actual building plan as per actual dimension of the plot allotted. In view of the above, we are of the considered opinion that the revisional authority has not

committed any factual or jurisdictional error in dismissing the revision petition as would call for intervention.

Another important aspect of the matter which invites attention is that the plot in question was allotted in the name of Kanchan Gandhi on 17.09.2004, long before filing of appeal by the petitioner in July 2005. The petitioner for the reasons best known did not prefer any appeal against order dated 02.02.2000 till July 2005 and the authorities created third party interest during interregnum period. The question which arises for consideration is whether the petitioner is entitled to any relief at this belated stage.

In *M/s. Royal Orchid Hotels Limited and another Vs. G.Jayarama Reddy and others, (2011)10 SCC 608*, Hon'ble the Supreme Court dealt with the question of delay and laches for entertaining belated petition under Article 226 of the Constitution. The principles of law laid down in *Shankara Cooperative Housing Society Limited Vs. M.Prabhakar, (2011) 5 SCC 607* were reiterated. The principles laid down in *Shankara Cooperative Housing Society Limited (supra)* are extracted hereunder:-

“(1) There is no inviolable rule of law that whenever there is a delay, the Court must necessarily refuse to entertain the petition; it is a rule of practice based on sound and proper exercise of discretion, and each case must be dealt with on its own facts.

(2) The principle on which the Court refuses relief on the ground of laches or delay is that the rights accrued to others by the delay in filing the petition should not be disturbed, unless there is a reasonable explanation for the delay, because