

Civil Writ Petition No.9458 of 2014
Date of Decision: *September 15, 2015*

Anil Bansal

..... PETITIONER(S)

VERSUS

State of Punjab & others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE SURYA KANT**
 HON'BLE MR. JUSTICE JASPAL SINGH

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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?

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PRESENT: - Mr. Nakul Sharma, Advocate, for the petitioner.

Mr. Rajesh Bhardwaj, Additional Advocate General, Punjab.

Mr. Rupinder S. Khosla, Senior Advocate, with Mr. Sanjeev Patiyal, Advocate, for respondent Nos.3 and 4.

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Surya Kant, J (Oral)

1. The petitioner has approached this Court laying challenge to orders dated 4.11.2003, 10.5.2007, 29.2.2012 and 19.12.2012, whereby the allotment of LIG Flat No.1426/7, Phase – 11, Mohali was

cancelled and that order has been upheld by the Appellate and Revisional authorities.

2. The facts may be noticed briefly. The afore-mentioned flat was allotted to Kawaljeet Kaur wife of Mohinder Singh vide Allotment Letter dated 27.9.1991. Soon thereafter, the allottee executed a General Power of Attorney on 21.1.1992 in favour of one Daljit Kaur wife of Surinder Singh. The allottee or her GPA did not pay the due installments and resultantly the allotment was cancelled and the site was resumed vide impugned order dated 4.11.2003 (P-4).

3. No appeal against the order of cancellation of allotment was filed by the original allottee or her GPA. That order thus attained finality.

4. On 29.9.2004, the GPA of the original allottee is said to have executed further 'sub-GPA' in favour of the petitioner. It is claimed that the 'sub-GPA' is actually an instrument of transfer of ownership/allotment for which the petitioner is claimed to have paid 'consideration' to the GPA holder.

5. The petitioner filed an appeal against the order of cancellation of the allotment somewhere in the year 2007 which was dismissed in default on 10.5.2007 (P-5). He also then went into slumber and did nothing till the year 2011 when he filed an appeal which was dismissed on 29.2.2012 (P-7). Similar was the fate of his revision petition rejected by the State Government vide order dated 19.12.2012 (P-9).

6. The above mentioned orders are challenged in the instant writ petition.

7. When this petition came up for preliminary hearing on 11.7.2014, this Court after noticing the above mentioned facts, observed as follows:-

“As the facts would speak for themselves, the petitioner is not a bonafide purchaser. He got sub General Power of Attorney executed in his favour for speculative gains even though the executant was no longer the authorized allottee of the flat after its resumption nor the petitioner has any locus-standi or right whatsoever to challenge the resumption of the site. However, having regard to the categoric plea taken before us that the petitioner is in physical possession of the flat from the last 10 years CWP No.9458 of 2014 [2] and as prayed for by his learned counsel, adjourned to 05.08.2014 to enable him to have instructions whether the petitioner is willing to seek re-allotment of the flat at the current allotment price of the year 2014?”

8. The petitioner instructed his counsel that he was willing to seek regularization of the allotment at the current price, hence notice was issued to the respondents on 5.8.2014.

9. The matter was heard at some length on 4.9.2015. Learned counsel for respondent Nos.3 and 4 informed that the current market price of the flat is about ₹ 22 lac which was disputed by the petitioner's counsel. The matter was thus adjourned to enable the parties to have clear instructions.

10. It is stated by Mr. Khosla, learned senior counsel for the contesting respondents that the current market price is not less than what was earlier quoted.

11. The petitioner has now changed his stand. He is present in Court and has instructed his counsel that he is not ready to pay more than ₹ 4 lac for the subject flat.

12. There being a huge margin between the price quoted by the authorities on one hand and what the petitioner has offered on the other, we are of the considered view that continuation of these proceedings would be an exercise in futility. The reasons not to interfere with the impugned orders have been briefly noticed in our order dated 11.7.2014. The petitioner obviously is not a bonafide purchaser. It cannot be said that he bought the property after due diligence. Even the original allottee was incompetent to create 3rd party interest in the subject flat. We are sure that the petitioner was fully aware of these facts and terms and conditions of original allotment before he got executed 'sub-GPA'. No ground is thus made out to interfere with the impugned orders.

13. The writ petition is dismissed accordingly but without any cost.

(Surya Kant)
Judge

(Jaspal Singh)
Judge

September 15, 2015
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