

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

**CWP No.8323 of 2015
Date of decision: 01-05-2015**

Smt.Sushma Jain

.....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 Malik, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. Through the present petition filed under Articles 226/227 of the Constitution of India, the petitioner prays for quashing the orders dated 21.12.2000, 29.7.2010, 9.7.2013 and 27.6.2014, Annexures P.10, P.12, P.14 and P.15 respectively passed by the respondent authorities whereby residential plot No.1833, Sector 18, Panipat allotted to the petitioner was resumed and appeal/revision thereto was dismissed. Direction has also been sought to the respondents to restore the resumed residential plot 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 a residential plot No.1833 in Sector 18, Panipat vide allotment letter

dated 10.8.1998, Annexure P.1 by the Estate Officer, HUDA, Panipat. The total amount of consideration for the said plot was ₹ 3,99,350/- out of which 10% amount was deposited by the petitioner alongwith the application form and she was required to deposit 15% of the total consideration amounting to ₹ 59,902.50 within 30 days of the issuance of allotment letter. The petitioner was not having any residential plot or house at the time when the plot in question was allotted to her. Her husband is a self employed person. He met with an accident when 15% amount was to be paid in which he suffered fracture of leg and remained bed ridden for a long time. Thus, she could not deposit 15% amount within the stipulated period of 30 days. As a result, the plot was cancelled by the Estate Officer, HUDA Panipat vide letter dated 25.1.1999, Annexure P.3. The petitioner filed representation/appeal on 24.2.1999, Annexure P.4 before the Chief Administrator, HUDA, Panchkula. Vide order dated 21.6.2000, Annexure P.5, the Chief Administrator, HUDA set aside the cancellation order and the petitioner was directed to pay all the dues alongwith interest and surcharge as per latest policy alongwith a penalty of ₹ 5000/- as cost to be deposited within 30 days of the intimation by the Estate Officer, Panipat. The petitioner was intimated vide letter dated 18.8.2000 by the Estate Officer, HUDA Panipat to deposit ₹ 2,05,830/- within 30 days after calculating the amount as per direction of the Chief Administrator, HUDA, Panchkula. In the meantime, the husband of the petitioner again met with an accident on 21.2.2000 in which he received grave injuries on head and he became paralyzed. He remained in this condition for about 10 years. The petitioner could not deposit the amount within time. She made representation dated 6.10.2000, Annexure P.9 to the

Chief Administrator, Panchkula to allow her to deposit 40% payment and balance in two instalments. However, the plot was again resumed by the Estate Officer, HUDA vide order dated 21.12.2000, Annexure P.10. Thereafter the petitioner's son was diagnosed with brain tumor in 2008. On account of condition of her husband and son, the petitioner could not file any appeal or revision against the cancellation order dated 21.12.2000 for a long time. In June 2006, she filed revision petition against the order dated 21.12.2000 which was dismissed vide order dated 29.7.2010, Annexure P.12 by respondent No.1. Aggrieved by the order, the petitioner filed CWP No.7847 of 2013 in this Court which was dismissed vide order dated 11.4.2013, Annexure P.13 with liberty to the petitioner to approach the revisional authority to reconsider the order dated 29.7.2010. The petitioner approached the Principal Secretary to Government Haryana, Town and Country Planning department – respondent No.1 who vide order dated 9.7.2013, Annexure P.14 remanded the case to the Chief Administrator, HUDA Panchkula. On 3.12.2013, she was called by the Chief Administrator to show her financial position. She was quite hopeful that she would finally get the plot but her case was rejected by the Chief Administrator vide order dated 27.6.2014, Annexure P.15. Hence the instant writ petition.

3. We have heard learned counsel for the petitioner.

4. Admittedly, the allotment was made in the year 1999 when only 10% of the earnest money was paid by the petitioner. The petitioner had failed to deposit 15% of the amount within the stipulated period of 30 days from the date of issuance of allotment letter. The plot in question was resumed and restored twice by the authorities on account of the

circumstances explained by the petitioner. Even the last representation submitted by the petitioner was considered and rejected by the Chief Administrator HUDA, Panchkula vide order dated 27.6.2014 by passing a speaking order. The order was passed after considering the overall facts and circumstances of the case. It was recorded thus:-

“I have heard the parties at length and gone through the record of the case as produced before me by official of the Urban Branch. Though, it is an admitted case of the petitioner that she could not deposit the 15% amount towards the cost of plot within 30 days from the date of issuance of allotment letter and therefore no case is made out on merits. The medical record of the husband of the petitioner does not amply prove the contentions of the petitioner that the 15% amount could not be deposited by her due to accident of her husband as the order for cancellation of the plot had already been passed by the Estate Officer, HUDA, Panipat on 25.1.1999. The medical record produced by the petitioner is of 28.2.2000, 27.3.2011, 31.3.2011, 8.4.2011, 15.4.2011, 28.4.2008, 25.5.2011, 24.6.2011. Therefore the non deposit of 15% amount within the stipulated period cannot be justified on the basis of the medical record submitted by the petitioner as it is later in date and time and post factum of the cancellation and it also does not prove the contention that the petitioner was suffering hardship on account of this future medical treatment of her husband and her son at the relevant time i.e. in the year 1999. In my considered opinion the petitioner failed to comply with the clauses of the letter of allotment and, therefore, her allotment stood cancelled and the earnest money deposited by her was forfeited by the authority. Therefore, finding no merit, the representation is hereby rejected.”

5. The petitioner during the long period starting from 1999 to

2014 was unable to deposit the required amount on the pretext of one reason or the other. The respondent authorities gave ample opportunities to the petitioner to deposit the requisite amount. After perusal of the medical record submitted by her, the explanation furnished by her was not found to be satisfactory. Learned counsel for the petitioner has not been able to produce any cogent and convincing evidence to substantiate the averments made in the petition. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 01, 2015
'gs'

(Rekha Mittal)
Judge