

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9172 of 2015

Date of Decision: 11.5.2015

Bimla Kumari

....Petitioner.

Versus

Haryana Urban Development Authority, Panchkula and others

...Respondents.

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

PRESENT: Mr. Sumeet Goel, Advocate with
Mr. Manav Bajaj, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the prders dated 3.8.2001 (Annexure P-11) passed by respondent No.4, dated 10.3.2008 (Annexure P-13) passed by respondent No.3 and dated 5.9.2014 (Annexure P-22) passed by respondent No.2.

2. The facts, in brief, necessary for adjudication of the present petition as narrated therein may be noticed. The petitioner was allotted a residential plot No. 1562, Sector 3, Kurukshetra vide allotment letter dated 6.12.1989 (Annexure P-1). Since the record of the Estate Officer, Haryana Urban Development Authority (HUDA), Kurukshetra was destroyed in the year 1990 by fire in the wake of anti-reservation agitations, the HUDA issued a public notice dated 20.1.1991 (Annexure

P-2) to the general public to produce their original documents with regard to their properties for construction of the records. In pursuance thereto, the petitioner submitted all the requisite documents to the respondents. Due to non-availability of the records, the respondents were not accepting any payments from the allottees including the petitioner on account of the installments due from them. The petitioner made various representations including representation dated 13.8.1994 (Annexure P-3) to respondent No.4 seeking instructions regarding the payment of installments qua the plot allotted to her. Respondent No.4 vide notice dated 5.9.1994 (Annexure P-4) asked the petitioner to deposit an amount of ₹ 44,359/-. The petitioner vide letter dated 15.9.1994 (Annexure P-5) requested the respondents to take the payment in four installments as she was not in a position to pay the huge amount in lump sum. Respondent No.4 vide notice dated 10.10.1994 (Annexure P-6) under Section 17(2) of the Haryana Urban Development Act, 1977 asked the petitioner to remain present for hearing on 27.10.1994 at 11.00 AM. The petitioner vide letter dated 17.10.1994 (Annexure P-7) requested the respondents to afford some other date and time for hearing. The respondents vide public notice dated 4.6.1995 (Annexure P-8) directed the allottees of different sectors in Urban Estate, Kurukshetra to submit the attested copies of their allotment letters, payment receipts etc. for construction of the burnt record. The petitioner vide letter dated 2.3.2007 (Annexure P-9) sought information regarding the balance amount due from the respondents followed by the letter dated 28.6.2007 (Annexure P-10). The Assistant Estate Officer, HUDA, Kurukshetra vide letter dated 27.7.2007 informed her that her plot had been resumed vide order dated 3.8.2001. She filed an appeal against

the resumption order on 9.8.2007 (Annexure P-12) before respondent No.3 which was dismissed vide order dated 10.3.2008 (Annexure P-13). The respondents vide public notice dated 9.3.2008 (Annexure P-14) afforded an opportunity to the allottee of plot No. 642, Sector 13, Kurukshetra to submit the requisite documents for reconstruction of the record burnt in the fire. The petitioner filed a revision against the order dated 10.3.2008 (Annexure P-13) on 5.6.2008 (Annexure P-15) before respondent No.2. She wrote a letter dated 25.7.2008 (Annexure P-16) to respondent No.2 for early hearing of the revision which was duly replied by the office of respondent No.2 vide letter dated 27.8.2008 (Annexure P-17) that she would be intimated the date of hearing in due course. She received a letter dated 27.11.2013 (Annexure P-18) from respondent No.2 that her revision has been fixed for hearing on 10.12.2013 at 10.00 AM. The petitioner vide letter dated 3.12.2013 (Annexure P-19) requested respondent No.2 for adjournment upon which the case was adjourned to 21.1.2014 and she was informed about the date vide letter dated 17.12.2013 (Annexure P-20). On 21.1.2014, the revision could not be heard and the same was posted for hearing on 26.8.2014 and the petitioner was duly informed about the date vide letter dated 28.1.2014 (Annexure P-21). Thereafter, the petitioner vide email dated 22.8.2014 sought adjournment in the matter due to the injury suffered by her husband. Respondent No.2 vide exparte order dated 5.9.2014 (Annexure P-22) dismissed the revision filed by the petitioner. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the resumption should be adhered to as a last resort even though there was third party right. However, an alternative plot would be allotted as the

petitioner is ready to make the payment. It was further submitted that the revision was decided after five years and, therefore, no one could appear on behalf of the petitioner.

4. After hearing learned counsel for the petitioner, we do not find any merit in the writ petition.

5. The plot was allotted to the petitioner on 6.12.1989. The schedule of payment of installments had expired on 5.12.1995. In spite of several opportunities having been granted, there was default on the part of the petitioner to pay the amount. The petitioner only paid 25% initial amount. Therefore, the plot in question being HUDA property was put in subsequent draw and was allotted to one Tej Pal Bhatia on 15.10.2003 in the draw of lots. Said Tej Pal Bhatia has been making payment of installments. Moreover, the appeal before respondent No.3 was filed after six years of the passing of the order of resumption on 3.8.2001. In the meantime, the plot in question was allotted to one Tej Pal Bhatia. In this way, the petitioner was a defaulter and was not inclined at any stage to make the payment of outstanding dues which led to the resumption of plot in question.

6. In view of the above, no ground for interference by this Court is made out. Accordingly, finding no merit in the present petition, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

May 11, 2015
gbs

(REKHA MITTAL)
JUDGE