

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 12791 of 2016

Date of Decision: 4.7.2016

S.K. Khosla

....Petitioner.

Versus

State of Haryana and others

...Respondents.

1. Whether the Reporters of the 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?

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Aashish Chopra, Advocate for the petitioner.

Ms. Shubhra Singh, Addl. Advocate General, Haryana and
Mr. Gaurav Bansal, AAG, Haryana.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing respondent No.1 to decide his case regarding allotment of shop No.11 in Old Judicial Complex, Gurgaon made vide allotment letter dated 4.02.1988 in parity with the cases of other similarly situated allottees of the said complex. Further, prayer has been made to direct respondent No.1 to treat the present writ petition as a comprehensive representation of the petitioner and decide his claim in similar terms as has

been done in the case of SCO No. 13 allotted to Archana Suneja and Sons

and similar other allottees within a time bound manner.

2. In the year 1988-89, Haryana Urban Development Authority (HUDA) had advertised an auction for purchase of shops/SCO sites in the then proposed multi storeyed commercial complex to be set up in the area of Old Judicial Complex, Gurgaon. In pursuance thereto, the petitioner participated in the said auction and had given the highest bid of ₹ 8,13,000/- for shop/SCO No.11, Commercial Scheme, Old Judicial Complex, Gurgaon. He was allotted the said shop vide allotment letter dated 4.2.1988 (Annexure P-1). The petitioner deposited 25% of the total bid amount for the shop in question, i.e. 10% at the time of acceptance of the bid on the date of auction and another 15% was deposited on 4.5.1988. Vide letter dated 19.2.1988 (Annexure P-2), the petitioner intimated the Estate Officer, HUDA-respondent No.4 that at the time of auction, the Administrator and the Estate Officer had declared that a period of 6-8 months would be taken before handing over the possession and till the date the possession was offered to the successful bidder, no interest would be levied. However, Clause 25 of the allotment letter provided that an interest @ 18% would be charged on the delayed payment. Respondent No.4 was requested to amend Clauses 5 and 25 of the allotment letter, Annexure P-1. Respondent No.4 vide letter dated 25.4.1988 (Annexure P-3) clarified that as per Clause 5, interest would be charged on the balance price at the rate of 10% from the date of offer of possession and as per Clause 25, the interest would be charged for the delayed payment of installment. Since the respondents failed to handover the physical possession of the shop in question, the petitioner filed a complaint dated 14.8.2001 (Annexure P-4) before the District Consumer Disputes Redressal Forum, Gurgaon (in short

“the Forum”). The Forum vide order dated 17.8.2001 directed the HUDA not to auction Kiosk Plot Site No.9 (adjoining site of shop in question) and the same be kept reserved for the petitioner. The word 'Kiosk Plot Site' was subsequently corrected vide order dated 20.8.2001 on the application moved by the petitioner. Against the order dated 17.8.2001, the HUDA filed revision before the State Consumer Disputes Redressal Commission, Haryana, Panchkula who vide order dated 7.2.2002 modified the said order to the extent that the auction proceedings with respect to the site reserved for the petitioner may go on but would not be finalized during the pendency of the complaint. HUDA filed its response to the complaint made by the petitioner by pleading that show cause notices were issued and the shop in question was resumed vide resumption order dated 25.1.2002 (Annexure P-5). Thereafter, the petitioner moved an application before the Forum for amending the complaint which was allowed vide order dated 3.12.2003. The Forum vide order dated 21.5.2004 (Annexure P-6) allowed the said complaint and directed the respondents to restore the site in question to the petitioner and deliver its physical possession within one month from the date of receipt of the copy of the order and also to pay interest @ 18% over the entire deposits of the complainant-petitioner till the physical possession of the site in question is delivered to him. Against the order, Annexure P-6, the respondents filed an appeal before the State Commission who vide order dated 13.10.2010 set aside the said order and dismissed the complaint filed by the petitioner. The State Commissioner further directed that the petitioner may seek exemption/condonation of the time spent before the Forum to seek remedy before the Civil Court, if so advised. Thereafter, the petitioner filed CWP No. 23482 of 2011 on 15.10.2011 (Annexure P-7) for

setting aside the resumption order dated 25.1.2002 passed by respondent No.4. This Court vide order dated 25.9.2012 (Annexure P-8) dismissed the said writ petition. The petitioner filed RA No. 159 of 2013 on 10.4.2013 (Annexure P-9) which was dismissed by this Court vide order dated 10.5.2013 (Annexure P-10). Against the orders, Annexures P-8 and P-10, the petitioner filed SLP No. 16992 of 2013 (Annexure P-11) before the Supreme Court. The said SLP was dismissed by the Apex Court vide order dated 4.10.2013 (Annexure P-12). The petitioner sought review of the order, Annexure P-12, by filing Review Petition No. 3041-42 of 2013 on 11.11.2013 (Annexure P-13) which was also dismissed by the Supreme Court vide order dated 4.2.2014 (Annexure P-14). On enquiry, the petitioner came to know that the resumption orders of the similarly situated auction purchasers who deposited the entire amount along with interest had been set aside. Accordingly, the petitioner sent a representation dated 10.11.2015 (Annexure P-15) to respondent No.1 for deciding his case regarding allotment of Shop No.11, Old Judicial Complex, Gurgaon made vide allotment letter dated 4.02.1988 in parity with the decisions taken in the cases of other similarly situated allottees, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved a representation dated 10.11.2015 (Annexure P-15) to respondent No.1, but no action has so far been taken thereon.

4. After hearing learned counsel for the parties, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.1 to take

a decision on the representation dated 10.11.2015 (Annexure P-15), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

July 4, 2016
gbs

(RAMENDRA JAIN)
JUDGE