

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12968 of 2016

Date of Decision: 4.7.2016

Renu Mittal

....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. Jagdish Manchanda, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. Through the instant 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 the respondents to transfer the shop/plot No. 162, measuring 20'x50', New Anaj Mandi, Jagadhri in her favour which she had purchased from the original allottee Shri Manbir Singh and paid the entire amount along with interest in the year 1990. Further, a prayer has been made directing the respondents to dispose of the representation made by the original allottee M/s Rekhi Trading Company through its Proprietor Shri Manbir Singh to transfer the plot in question in the name of the petitioner and the possession thereof be offered to the petitioner as the same had not been offered to the original allottee. Further, the respondents be directed to give four months' time to the petitioner to raise construction and not to charge interest/penal interest and extension fee etc. for the plot in question.

2. Plot No. 162 measuring 20'x50' was allotted to M/s Rekhi Trading Company, New Anaj Mandi, Yamuna Nagar through its proprietor Shri Manbir Singh vide allotment letter dated 24.8.1988 (Annexure P-1). The petitioner purchased the said plot for an amount of ₹ 41,650/- and paid the entire amount. However, possession of the plot was not handed over to the predecessor of the petitioner and, therefore, the same could not be constructed. The predecessor of the petitioner moved an application along with an affidavit on 27.5.2016 (Annexure P-2) before respondent No.3 for change of the ownership of the plot in question in favour of the petitioner, but to no effect. Government of Haryana, Department of Horticulture and Marketing framed Haryana State Agriculture Marketing Board (Sales of Immovable Property) Rules, 2000 (in short "the Rules") for sale of immovable property and as per Clause 3 of Rule IX of the Rules, the shop/plot can be transferred after five years from the date of allotment under special circumstances with prior approval of the Chief Administrator, the same can be transferred. Respondent No.2 framed a policy dated 28.9.2015 (Annexure P-3) for transfer of the immovable property. As per said policy, no transfer was allowed without clearance of all the pending dues of the plot including total price of the plot in question. One Bhoj Raj Goyal and others who were allotted Plot No. 102 in New Grain Market, Jagadhri and no offer of possession was given to them, filed CWP No. 18432 of 2007 praying for not charging interest and non-construction fee from them. This Court vide order dated 7.4.2008 disposed of the said writ petition with a direction to the respondents to dispose of the representation of the petitioners therein within a period of four weeks. In pursuance thereto, respondent No.3-Secretary, Market Committee vide order dated 15.5.2008 ordered that the Market Committee was not entitled to charge interest as well as market fee etc. Respondent No.2 vide orders dated 9.1.2006 and 4.9.2007 (Annexures P-5 to P-7, respectively) had already waived off the interest etc. in the case of other allottees in New Grain Market, Thanesar. This Court vide orders dated 7.8.2003 (Annexure P-8) and dated 4.5.1999 (Annexure P-9) had held that no interest could be charged where the amenities were not completed and offer of possession could not be given. Since no offer of possession of the plot

in question has been given to the petitioner, therefore, the respondents were not entitled to charge interest from the petitioner. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the predecessor of the petitioner, namely, Shri Manbir Singh has filed an affidavit as well as an application dated 27.5.2016 (Annexure P-2) before respondent No.3, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, 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.2 to take a decision on the application dated 27.5.2016 (Annexure P-2), 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
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(RAMENDRA JAIN)
JUDGE