

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 15086 of 2016

Date of Decision: 19.9.2016

Canal Colony Welfare Association, Amritsar

....Petitioner.

Versus

State of Punjab and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE KULDIP SINGH.**

PRESENT: Mr. Ashok Kumar Arora, Advocate for the petitioner.

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/certiorari directing the respondents to hand over the physical possession of the plots purchased by the members of the petitioner with all basic amenities like water supply, electric connections, sewerage, storm water, roads and parks as shown in the site plan and promised during auction proceedings as fully described in the newspaper advertisement, Annexure P-6; to direct the respondents to postpone the installments due or re-schedule the installments of balance payments of the plots from the date of physical possession of the same in consonance with the statement made in CWP No. 7682 of 2015 decided on 3.9.2015 (Annexure P-4); to quash the show cause notice dated 30.5.2016 (Annexure P-5) issued by respondent No.3 under Section 45 of the Punjab Regional and Town Planning and

Development Act, 1995 (hereinafter referred to as “the Act”); to direct the respondents to charge the interest on the balance payment of the plots from the date of handing over of the physical possession; to direct the respondents to pay interest @ 18% per annum to the members of the petitioner from 2.4.2014 till the handing over of the possession on the payments made by them; to direct the respondents to allow 5% rebate within 60 days from the date of physical possession of the plots on the balance payment after deducting the amount already paid by them.

2. In the year 2014, the respondents given an advertisement (Annexure P-6) for auction of freehold 43 residential plots measuring one kanal each. It was mentioned therein that the possession of the plots in question would be given to the successful highest bidder/purchaser who would deposit 25% of the total saleable value of the plot. The auction of the plots was held on 3.3.2014. The members of the petitioner were the highest bidders. They deposited the requisite amount of 25% on the belief that the respondents would hand over the physical possession of the plots in question. However, no development work took place at the site of the plots. The respondents issued allotment letters dated 7.7.2014 (Annexure P-8 Colly). One of the conditions mentioned therein was that the possession of the plots would be given within 90 days from the date of issuance of the allotment letter providing that 25% of the total saleable price of the plots is deposited. The petitioner sent various letters (Annexure P-9 Colly) to respondent No.2 for possession of the plots, but to no effect. The petitioner got information under the Right to Information Act, 2005 (in short “2005 Act”) vide letter dated 2.2.2015 (Annexure P-10) that there are certain buildings/houses occupied by the officers of Punjab Police for which no

tender has been released for dismantling of the said buildings and that the draw had been held without the development of road, sewerage and parks. The Estate Officer, PUDA, Amritsar vide letter dated 2.2.2015 (Annexure P-12) addressed to the Additional Chief Administrator, PUDA admitted that the respondents were not in a position to hand over the physical possession of the plots. The said information was supplied to the petitioner under the 2005 Act by the Estate Officer vide letter dated 2.2.2015 (Annexure P-11). The members of the petitioner refused to take physical possession of the plots as it was only symbolic and without water supply construction activity for their house cannot commence. The petitioner filed CWP No. 7682 of 2015 and this Court vide order dated 3.9.2015 (Annexure P-4) disposed of the said writ petition with a direction to the respondents to make sure that the roads, sewerage or electricity connections are made available by 30.11.2015 and till then the levy of interest on the due installments be deferred. The desirability of postponing the payment of 2nd installment from 3.9.2015 to 3.11.2015 may also be sympathetically considered. When no action was taken despite the order of this Court, the petitioner wrote letters dated 9.9.2015, 17.9.2015, 21.9.2015, 26.10.2015 and 4.11.2015 (Annexure P-13). In response thereto, respondent No.3 vide letter dated 5.11.2015 (Annexure P-14) informed the petitioner that the Municipal Corporation, Amritsar had refused to connect storm waterline connection with the main sewerage and asked the petitioner to make an endeavour to get permission from the Municipal Corporation, Amritsar. Respondent No.3 vide letter dated 5.1.2015 (Annexure P-15) directed the members of the petitioner to pay the balance amount in installments including the interest as per the new schedule. The petitioner filed COCP No. 181 of 2016 on 17.1.2016

(Annexure P-16). In the said contempt petition, notice was issued and the respondents filed replies dated 18.3.2016 (Annexure P-17) and dated 23.3.2016 (Annexure P-18). During the pendency of the contempt petition, the respondents have issued a show cause notice under Section 45 of the Act for cancellation of the allotment of plots in case of non-payment of installments along with interest and fine within a period of 30 days. Accordingly, the petitioner served a legal notice dated 9.6.2016 (Annexure P-19) upon respondents No.2 and 3 for withdrawal of the demand notices/ letters issued to the members of the petitioner, 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 sent a legal notice dated 9.6.2016 (Annexure P-19) to respondents No.2 and 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.3 to take a decision on the legal notice dated 9.6.2016 (Annexure P-19), 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

September 19, 2016
gbs

(KULDIP SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No