

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

CWP No.1654 of 2016 (O&M)

Date of decision : 27.1.2016

GMADA

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT  
HON'BLE MR. JUSTICE P.B.BAJANTHRI**

Present: Mr. Balwinder Singh, Advocate for the petitioner.

**SURYA KANT, J. (Oral)**

The Greater Mohali Area Development Authority (GMADA) assails the orders dated 17.03.2011 and 04.10.2011 (Annexure P-15 and P- 17 respectively). Vide these orders, the Appellate Authority set aside the order of cancellation of allotment of house No. LIG-1429/10, Phase XI, SAS Nagar, Mohali, (GMADA) and the revision petition preferred by GMADA was also dismissed by State Government in exercise of its powers under Section 45 (8) of the Punjab Regional and Town Planning and Development Act, 1995 (for short 'the 1995 Act').

2. The allotment of the dwelling unit was cancelled as the allottee failed to deposit the due instalments despite show cause notices. Since the allotment-price of the house amounting to Rs.33,000/- has already been deposited by the allottee/GPA, thus the

Appellate Authority allowed the appeal and restored the allotment vide order dated 17.03.2011.

3. GMADA preferred a revision petition which was dismissed vide order dated 04.10.2011 by an officer exercising the powers of Revisional Authority under Section 45(8) of the 1995 Act.

4. GMADA has now chosen to assail these orders after almost 5 years on the ground that allotment was cancelled in the year 1995 and no appeal ought to have been entertained in the year 2011 against such decision after an inordinate delay of over 15 years.

5. Infact, the instant writ petition is the after-effect of the order dated 12.2.2013 passed by this Court in CWP No.14926 of 2012 (GMADA Vs. State of Punjab and others) (Annexure P-3) whereby this Court set aside the order passed by an Under Secretary of the State Government in purported exercise of revisional jurisdiction under Section 45(8) of the 1995 Act restoring the allotment of a dwelling unit after 16 years of cancellation, with a further direction to the Chief Secretary, Punjab to consider the desirability of examining of all such cases decided by the then Under Secretary, prima facie, for the reasons other than merits.

6. Having heard learned counsel for the petitioner at a considerable length, we are satisfied that this is not a fit case for interference with the impugned orders. We say for the reasons that GMADA was fully aware of the Appellate and Revisional orders passed in the year 2011. Since both the parties changed their position;

reconciled with the orders passed in quasi-judicial proceedings and resultant rights have accrued in favour of the allottee, who has already deposited the due amount also, it would be too in equitous and unfair to interfere to unsettle the settled issues.

7. It may be true that writ proceedings are not regulated by the law of limitation but equally well settled is that such discretionary jurisdiction ought to be invoked within a reasonable period.

8. In ***State of U.P. Vs. Amar Nath Yadav (2014) 2 SCC 422***, holds that the law of limitation undoubtedly binds everybody, including the Government. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the Govt. departments. The law shelters everyone under the same light and should not be swayed for the benefit of Government?

9. In the ***office of the Chief Post Master General and others Vs. Living Media India Ltd. and another (2012) 3 SCC 563***, rules that it is the right time to inform all the Govt. bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation.

10. In the case in hand, impugned orders were passed in the year 2011. The GMADA was fully aware of the fact that a statutory appeal or revision cannot be entertained by the Authorities on mere

asking of a litigating party, more so when the Statute prescribes the period of limitation for invoking such remedy. Yet the GMADA kept the matter under carpet and took no steps to assail the impugned orders on the analogy of CWP No. 14926 of 2012 (decided vide Annexure P-3) which was filed in identical circumstances.

11. There is not even a whisper what to talk of any reasonable explanation for the inordinate delay in approaching this Court at this stage.

12. Further it is not a case where the Under Secretary of the State Government against whom this Court had made some adverse observation, passed the restoration order. It is the Additional Chief Administrator of the petitioner-GMADA who accepted the appeal and restored the dwelling unit. The Revisional Authority merely declined to interfere in that order. On facts also the case is distinguishable.

13. Further more, the view taken by the Revisional Authority is one of the plausible and reasonable view. It would not be justified for this Court to act as Appellate Forum and set aside those orders and substitute the opinion of the Authorities.

14. Taking into consideration the totality of the circumstances, we do not find any ground to set aside the impugned orders. The petition is accordingly dismissed.

**( Surya Kant )**  
**Judge**

**27.1.2016**  
**Meenu**

**( P.B.Bajanthri )**  
**Judge**