

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

CWP No.1668 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 17.2.2011 and 12.7.2011 (Annexure P-23 and P-25 respectively). Vide these orders, the Appellate Authority set aside the order of cancellation of allotment of house No.HL-578, Phase IX, 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. The Appellate Authority, however, accepted the claim of the attorney of original allottee on the plea that even after cancellation of

allotment the Estate Officer had shown inclination to restore the allotment on deposit of penalty of Rs.11,000/-. It may be mentioned here that allotment-price of the house was Rs.18,000/- only. Attorney of the allottee deposited the penalty amount and the Appellate Authority allowed the appeal and restored the allotment vide order dated 17.2.2011.

3. GMADA preferred a revision petition which was dismissed vide order dated 12.7.2011 by an officer exercising the powers of Revisional Authority under Section 45(8) of the 1995 Act.

4. No sooner the revision petition was dismissed, the Estate Officer (Housing), GMADA passed the order dated 20.10.2011 (Annexure P-26) whereby the orders of the Appellate and Revisional Authority were complied with and the allotment was restored in the name of the allottee through his attorney.

5. GMADA has now chosen to assail these orders after almost 5 years on the ground that allotment was cancelled in the year 1988 and no appeal ought to have been entertained in the year 2011 against such decision after an inordinate delay of over 20 years.

6. 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.

7. 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. Instead of challenging the same before this Court on the analogy of CWP No.14926 of 2012 (decision P-3) (which is now relied upon), the Estate Officer chose to implement the impugned orders and restored the allotment within four months in October 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 inequitable and unfair to interfere to unsettle the settled issues.

8. 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.

9. 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 swirled for the benefit of Government?

10. 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.

11. 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.

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

13. 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.

14. 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.

15. 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

(P.B.Bajanthri)
Judge

27.1.2016
Meenu