

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 17122 of 2016

Date of Decision: 23.8.2016

Sumit Mehra and another

....Petitioners.

Versus

State of Punjab and others

...Respondents.

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

PRESENT: Mr. APS Sandhu, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the orders dated 23.5.2016 (Annexure P-8) passed by respondent No.5 directing petitioner No.2 to pay a sum of ₹ 53,42,840/- qua plot No. 771-D and dated 17.5.2016 (Annexure P-7) directing petitioner No.1 to pay an amount of ₹ 54,02,204/- for restoration of plot No. 722-D, situated at Ajnala Road (97 Acre) under Area Development Scheme, Amritsar. Further, a writ of mandamus has been sought directing the respondents not to charge the penal interest as well as restoration charges, as no facilities and amenities have been provided by them and to complete the basic infrastructure and hand over the actual physical possession to the petitioners.

2. Respondent No.3-Amritsar Improvement Trust (in short “the Trust”) issued an advertisement offering freehold residential plots in Ranjit Avenue, Blocks-A, B and D at Ajnala Road, Amritsar. A brochure (Annexure P-1) was issued giving the details of total plots, categories and layout plans of the said Scheme. The petitioners applied for the plots of 250 square yards. The draw of lots was held on 14.2.2011 and the petitioners

being successful were allotted plots of 250 square yards each. Petitioner No.1 was allotted plot 771-D whereas petitioner No.2 was allotted plot No. 772-D vide allotment letters dated 3.7.2012 (Annexures P-2 and P-3, respectively). The total price of plot No. 771-D was ₹ 70,20,500/- whereas plot No. 772-D was ₹ 70,98,500/-. As per the allotment letters, the development facilities of the plots was to be provided before the payment of all the installments and the petitioners were liable to take possession of the same within 30 days from the issuance of the allotment letters after the execution of the agreement to sell. Further, the petitioners were required to start the construction over the plots within a period of one year from the date of allotment and in violation thereof, the plots were liable to be resumed. Petitioner No.1 paid a total sum of ₹ 47,45,350/- vide receipts (Annexure P-4 Colly) and petitioner No.2 paid a total amount of ₹ 48,31,407/- vide receipts (Annexure P-5 Colly). Even after passing of one and a half years after the allotments of the said plots, the Trust could not develop the area and also did not provide basic amenities within the stipulated time. Whenever the petitioners and other persons represented to the officers of the Trust, they were assured that no penal interest would be charged unless the basic amenities are provided. Resolution dated 4.7.2014 was passed by the Trust which was accepted by the State Government vide letter dated 24.7.2014 extending the date for providing amenities till 31.12.2014. Resolution dated 15.10.2014 extending the date of providing facilities till 21.7.2015 was approved by the State Government vide letter dated 26.11.2014. Similarly Resolution dated 31.8.2015 extending the date till 31.12.2015 was approved by the State Government vide letter dated 30.9.2015. Similarly, Resolution No.15 (Annexure P-6) was approved extending the date of completing the facilities till 31.6.2016. A notice dated 17.5.2016 (Annexure P-7) was issued by respondent No.5 to petitioner No.2 qua plot No. 772-D regarding the payment of ₹ 54,02,204/- to be deposited by 2.6.2016 and another notice dated 23.5.2016 (Annexure P-8) was issued to petitioner No.1 qua plot No. 771-D for payment of ₹ 53,42,840/- to be deposited by 2.6.2016. Accordingly, petitioner No.1 moved a representation dated 25.5.2016 (Annexure P-9) to respondents No.2 and 3 for waiver of interest, penal interest and restoration charges on the payment of balance installments, but no response has been received till date. Hence, the present

writ petition.

3. Learned counsel for the petitioners submitted that for the relief claimed in the writ petition, petitioner No.1 has sent a representation dated 25.5.2016 (Annexure P-9) to respondents No.2 and 3, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, 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.4 to take a decision on the representation dated 25.5.2016 (Annexure P-9), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of three months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

August 23, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No