

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 17386 of 2016

Date of Decision: 26.8.2016

Anuj Kumar

....Petitioner.

Versus

State of Punjab and another

...Respondents.

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

PRESENT: Mr. Arun Bansal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this 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 refund the amount deposited by him along with interest @ 21% per annum (monthly rest) from the date of deposit till its refund as they have failed to construct the flats and hand over the possession within the prescribed period.

2. The respondents framed a development scheme, namely, '51.5 Acre (Bibi Bhani Complex), Guru Amardas Nagar, Jalandhar. Respondent No.2 invited applications for the allotment of LIG flats under the said Scheme. In response thereto, the petitioner applied vide application No. 68511 along with a sum of ₹ 60,000/- as earnest money. The draw of lots was held on 16.8.2009 and the same was sent to the concerned authorities by respondent No.2 for its sanction. Respondent No.1 vide memo dated 19.11.2009 granted necessary sanction. The petitioner was allotted LIG Flat No. 38-A, First Floor vide allotment letter dated 28.1.2010 (Annexure P-1).

As per the allotment letter, the petitioner was required to pay 25% of the amount by 26.2.2010 along with cess charges, agreement fee and photography fee, i.e., total ₹ 1,04,342/- after adjustment of ₹ 60,000/- deposited along with the application. The balance 75% amount was to be paid in 10 bi-annual installments starting 28.7.2010 and ending 28.1.2015 out of which first five installments had no interest and the rest of the five installments were required to be deposited along with interest. As per the first receipt dated 23.2.2010 (Annexure P-2) and the demand draft dated 10.12.2015 (Annexure P-3) of the last installment, the petitioner had deposited the entire amount and no amount was due. However, possession of the flat was not delivered to the petitioner. As per Clause 7 of the allotment letter, Annexure P-1, the respondents were required to complete the construction and to provide the basic facilities within 2½ years from the date of allotment. The petitioner vide application dated 1.6.2016 (Annexure P-4) under the Right to Information Act, 2005, sought an information regarding the details of the construction, the stage of the construction, the flat to be allotted to him is ready for occupation and when the possession would be given. However, no response has been received from the respondents. Accordingly, the petitioner vide letter dated 8.7.2016 (Annexure P-5) requested for refund of the amount deposited by him, 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 letter dated 8.7.2016 (Annexure P-5) to respondent No.2, 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 letter dated 8.7.2016 (Annexure P-5), 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. It is further directed that in case the petitioner is found entitled to the amount of refund, the same be released to him within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

August 26, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No