

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 18447 of 2016

Date of Decision: 6.9.2016

Tripal Pal Singh (TP Singh)

....Petitioner.

Versus

Chandigarh Housing Board, Chandigarh

...Respondent.

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

PRESENT: Mr. Sameer Sachdeva, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. The petitioner seeks a direction to the respondent to return the excess/surplus amount deposited by him along with interest lying in fixed deposit of the respondent since 2011 qua dwelling unit No. 2173-B, 2nd Floor, Sector 63, Chandigarh.

2. As per the Brochure (Annexure P-1), the respondent issued a General Self Financing Scheme-2008 for general public of UT, Chandigarh for the allotment of various residential flats in Sector 63, Chandigarh. The cost of 2 bedroom flat was fixed at ₹ 29,14,051/- by the respondent. One Smt. Gurjeet Kaur who applied for a 2 bedroom flat by depositing the initial amount of ₹ 2,91,405/- as earnest money along with the application was declared successful in the draw of lots held on 7.4.2010. Said Smt. Gurjeet Kaur executed sale agreement, registered General Power of Attorney

(Annexure P-3), the Will all dated 26.7.2011 (Annexures P-2 to P-4,

respectively), affidavit and indemnity bond in favour of the petitioner qua the 2 bedroom flat. Smt. Gurjeet Kaur vide letter dated 25.7.2011 (Annexure P-5) requested the Accounts Officer, Chandigarh Housing Board, Chandigarh for change of the address by notifying the address of the petitioner. The respondent issued the demand letter dated 2.11.2011 (Annexure P-6) at the address of the petitioner. The petitioner deposited the amount of ₹ 4,37,108/- on 29.11.2011 vide draft and receipt dated 29.11.2011 (Annexure P-7). Smt. Gurjeet Kaur also deposited the amount of ₹ 4,37,108/- on 1.12.2011 through some other representative. As per the schedule, the petitioner against deposited a sum of ₹ 8,17,632/- as first installment with the respondent vide draft and receipt dated 25.4.2012 (Annexure P-8). Smt. Gurjeet Kaur also deposited the same amount as first installment with the respondent on 3.5.2012. The remaining two installments were paid only once to the respondent and, thus, the respondent had received the full payment of the flat. As per the receipt and acknowledgment (Annexure P-9), the amount paid by the petitioner was lying in excess with the respondent. At the time of handing over the possession, when the petitioner found that Smt. Gurjeet Kaur was taking over possession and ownership by bypassing the petitioner, the petitioner filed protest application and also got registered FIR No. 500 dated 15.10.2015 (Annexure P-10). The respondent stalled the delivery of possession of the said flat vide order dated 2.6.2016 (Annexure P-11) till the FIR was under investigation. The matter had been settled with Gurjeet Kaur and on the basis of the compromise deed dated 18.8.2016 (Annexure P-13), the petitioner filed quashing petition bearing CRM-M-30465 of 2016 in which notice of motion has been issued vide order dated 30.8.2016

(Annexure P-12). The respondent is neither refunding the double payment received by it and was earning interest by keeping the said amounts in their fixed deposits. Accordingly, the petitioner served a legal notice dated 18.6.2016 (Annexure P-14) upon the respondent for refund of the excess amount along with interest, 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 18.6.2016 (Annexure P-14) to the respondent, 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 the respondent to take a decision on the legal notice dated 18.6.2016 (Annexure P-14), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three 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

September 6, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No