

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 19563 of 2016

Date of Decision: 21.9.2016

Sushma Bhatia

....Petitioner.

Versus

Financial Commissioner, Town & Country Planning, Haryana and others
...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE KULDIP SINGH.**

PRESENT: Mr. Pawan Kumar Goklaney, 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 an amount of ₹ 94,959/-along with interest @ 18% per annum.

2. In the year 2000-01, the respondents invited application for the allotment of residential plots in Sector 10, Gurgaon. In response thereto, the petitioner and her husband applied for the same. They were successful in the draw of lots and vide allotment letters, the petitioner was allotted plot No. 296/10 whereas her husband was allotted plot No. 5-P/10. As per the conditions of the Haryana Urban Development Authority (HUDA), a family could not retain more than one plot, the petitioner and her husband moved an application to the HUDA for surrendering plot No. 5-P/10. The petitioner and her husband vide letter dated 19.3.2001 (Annexure P-1) requested

respondent No.3 that 10% earnest money amounting to ₹ 1,43,664/- of plot No. 5-P/10 be adjusted as 15% acceptance amount, i.e. ₹ 1,39,467/- against plot No. 296/10. However, respondent No.3 vide letter dated 1.7.2009 (Annexure P-2) instead of adjusting 10% earnest money deposited by the husband of the petitioner against plot No. 5-P/10, cancelled the allotment of plot No. 296/10 and forfeited the earnest money. Further, respondent No.3 vide letter dated 1.7.2009 (Annexure P-3) cancelled the allotment of plot No. 5-P/10 and also forfeited the earnest money. Feeling aggrieved, the petitioner filed an appeal before respondent No.1 who vide order dated 15.1.2010 (Annexure P-4) allowed the appeal and accepted the request made vide letter dated 19.3.2001. The husband of the petitioner was allowed to surrender plot No. 5-P/10 and the petitioner was allowed to accept the allotment of plot No. 296/10, Gurgaon and 10% earnest money of plot No. 5-P/10 was also ordered to be adjusted against the dues of plot No. 296/10. In pursuance thereto, respondent No.3 vide letter dated 26.2.2010 (Annexure P-5) directed the petitioner to deposit a sum of ₹ 9,75,610/- against plot No. 296, Sector 10, Gurgaon and the petitioner deposited the amount of ₹ 9,76,000/- under protest vide receipts dated 2.3.2010 (Annexure P-6 Colly). The petitioner made a request to respondent No.3 that since the rate of interest had been calculated at the rate of penal interest, he was bound to refund the amount which had been charged over and above against the order passed by respondent No.1. Respondent No.3 vide letter dated 13.8.2010 (Annexure P-7) had acknowledged the receipt of penal interest at the rate of 18%. The petitioner vide letter dated 2.3.2010 (Annexure P-8) requested the respondents to refund the excess amount charged against the order of respondent No.1, but to no effect. The

petitioner vide an application dated 15.5.2010 under the Right to Information Act, 2005, sought information regarding receipt of excess amount by way of penal interest against plot No. 296, Sector 10, Gurgaon. Respondent No.3 vide letter dated 9.9.2010 (Annexure P-9) informed the petitioner that a reference has been made to the Chief Controller of Finance, HUDA, Panchkula asking the correct amount of interest to be charged as per the order, Annexure P-4. Subsequently, a letter dated 12.5.2011 (Annexure P-10) was sent by respondent No.3 to the petitioner informing that a sum of ₹ 94,959/- was refundable. Respondent No.3 vide letter dated 17.5.2016 (Annexure P-11) provided the attested and readable copy of the letter dated 12.5.2011 to the petitioner. The petitioner moved representations dated 18.2.2011 (Annexure P-12), dated 27.1.2015 (Annexure P-13) and dated 17.5.2015 (Annexure P-14) to the respondents for refund of ₹ 94,959/-, but to no effect. Lastly, the petitioner moved a representation dated 13.6.2016 (Annexure P-15) to the Chief Secretary to Government of Haryana, Chandigarh for refund of the amount, 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 representation dated 13.6.2016 (Annexure P-15) to the Chief Secretary to Government of Haryana, Chandigarh, 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 representation dated 13.6.2016 (Annexure P-15), 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 her within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

September 21, 2016
gbs

(KULDIP SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No