

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 22928 of 2015

Date of Decision: 1.8.2016

Palani Muthu

....Petitioner.

Versus

The State of Union Territory and others

...Respondents.

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

PRESENT: Ms. Gehna Vaishnavi, Advocate for the petitioner.

Mr. Ashish Rawal, Advocate for respondents No.1 and 2.

Mr. Vikram Vir Sharda, Advocate for
Ms. Bhavna Joshi, Advocate for respondent No.3.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the order dated 23.6.2015 (Annexure P-10) passed by the Permanent Lok Adalat (Public Utility Services), Union Territory, Chandigarh [in short "PLA (PUS)"] rejecting his claim for the allotment of alternative site. Further, a writ of mandamus has been sought directing the respondents to allot the alternative site to the petitioner as per 'The Chandigarh Small Flats Scheme 2006' and amended Scheme of 2009.

2. Put shortly, the facts, necessary for adjudication of the instant petition as narrated therein may be noticed. Shri Panch Muthu and Smt.

Aslampal (parents of the petitioner) were resident of Jhuggi No. 873, BDC,

MC, Phase III, Sector 26, Chandigarh which is discernible from a perusal of voter cards dated 23.10.1994 (Annexure P-1), dated 19.11.2005 (Annexure P-2) and ration card dated 20.5.2010 (Annexure P-3). They were considered eligible for allotment of alternative site/dwelling unit by the Chandigarh Housing Board and applied for the allotment of alternative site. After the death of father of the petitioner, the name of his mother was incorporated by the Chandigarh Housing Board in the deposit receipts. The Chandigarh Administration notified a Scheme, namely, 'The Chandigarh Small Flats Scheme 2006 for Rehabilitating the jhuggi dwellers as amended on 9.11.2009 vide notification dated 9.11.2009 (in short "the Scheme"). As per the Scheme, the parents of the petitioner deposited a sum of ₹ 900/- vide receipt dated 9.12.2013 (Annexure P-4) and ₹ 4500/- vide receipt dated 20.12.2013 (Annexure P-5). However, possession of the alternative site was not given to the parents of the petitioner. As per death certificates (Annexures P-6 and P-7, respectively), the parents of the petitioner died on 27.8.2013 and on 29.12.2014. The petitioner being the legal heir of his parents, moved an application before the PLA (PUS) for allotment of alternative site/dwelling unit along with adhaar card dated 29.4.2013 (Annexure P-8) and voter card dated 23.8.2014 (Annexure P-9). The Permanent Lok Adalat vide order dated 23.6.2015 (Annexure P-10) had rejected the application of the petitioner for the alternative site/dwelling unit. Hence, the present writ petition.

3. Upon notice of motion having been issued, respondent No.3 filed reply by way of affidavit of Shri Ashok Kumar Jasrotia, Chief Accounts Officer, Chandigarh Housing Board. It was pleaded therein that respondent No.3 was only a nodal agency of the Chandigarh Administration

and the decisions with regard to the eligibility of applicant and allotment of small flats under the Scheme were to be taken by respondent No.2 who after conducting a survey makes allotment of flats to the eligible candidates providing that the terms and conditions laid down under the Scheme were fulfilled. Further, it was pleaded that since respondent No.3 had not received any instructions/recommendations for allotment of a flat to the petitioner, therefore, the same had not been allotted.

4. We have heard learned counsel for the parties.

5. In so far as the claim of the petitioner for the allotment of dwelling unit in his own right is concerned, the same had been rightly declined by the PLA(PUS) as the petitioner had failed to show that in his own capacity he had been a regular resident of the colony since 2004. Except voter card for the year 2014, the petitioner had not produced any other material on record to prove the said fact. In the absence of any evidence, the petitioner cannot be declared eligible for the allotment of alternative site.

6. However, in para 3 of the reply, it is admitted by respondent No.3 that the parents of the petitioner were declared eligible for allotment and in pursuance thereto, they had deposited ₹ 900/- vide receipt dated 9.12.2013 (Annexure P-4) and ₹ 4500/- vide receipt dated 20.12.2013 (Annexure P-5) with the Chandigarh Housing Board. However, the parents of the petitioner were not delivered the possession of the alternative site. Subsequently, after the death of father of the petitioner Shri Panch Muthu, the question of determining the eligibility of the legal heir of deceased Panch Muthu was referred to respondent No.2 vide memo No. 1884-85 dated 26.02.2014 which is still pending. No final order having been passed

thereon so far, no right accrues in favour of the petitioner at this stage. It is, however, observed that as and when the said issue is decided by the respondents, it shall be open for the petitioner to seek his remedies in accordance with law, if so required.

7. In view of the above and subject to the observations noticed in para 6 above, the writ petition is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

August 1, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes