

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

210

CWP No.2351 of 2015

Date of Decision:07.01.2016

Sunita Malik and another

....petitioners

Versus

Haryana Housing Board, Kurukshetra and another

.....respondents

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI**

- 1.Whether Reporters of local papers may be allowed to see the judgement?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr.Yogesh Goyal, Advocate for
Mr.Durgesh Aggarwal, Advocate
for the petitioner

Mr.Balwinder Singh, Advocate for
Mr.V.K.Vashisht, Advocate
for respondent No.1

Mr.Deepak Balyan, Additional Advocate General, Haryana

S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

The petitioners have challenged the order passed by the Appellate Authority dismissing the appeal under Section 54 of the Haryana Housing Board Act, 1971 (for short 'the Act'), on the ground of delay.

A flat in the LIG category was allotted on 11.07.2009 to the erstwhile owner for a sum of ₹10,26,800/-. The flat was transferred in the name of the petitioners on 19.05.2011. Part payment of ₹ 6,91,000/- was made. There were defaults in the payment of installments of ₹ 7,742/- per month from April 2012 to August 2012. The eviction order was passed on 27.11.2012 and possession of the premises was taken on 06.05.2014. The appeal was filed on 01.07.2014. Under Section 54 of the Act, the appeal is

to be filed within 30 days. The petitioners' case is that they were not served the eviction order and they did not know the same.

The respondents relied upon Registered A.D. receipts. Prima facie, at least, these receipts do not indicate that the petitioners were served. There is no address mentioned in the receipts. One of the receipts has been signed by a person who is not one of the petitioners. The balance of probability must lie in favour of the petitioners. There is no reason, why the petitioners faced with an eviction order, would not challenge the same.

The ends of justice, therefore, would require that the appeal is heard on merits. The Appellate Authority has made an observation against the petitioners on merits. This, however, is without considering the entire matter.

In the circumstances, the impugned order is set aside. The petitioners' appeal shall be decided on merits. Till the decision of the appeal, status quo in respect of the flat shall be maintained.

The petition stands disposed of.

January 07, 2016
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(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE