

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 24118 of 2016

Date of Decision: 22.11.2016

Vijay Bhushan

....Petitioner.

Versus

State of Punjab and another

...Respondents.

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

PRESENT: Mr. G.L. Bajaj, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. Through the instant 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 letters dated 5.8.2015 (Annexure P-12) issued by respondent No.2 and dated 22.7.2016 (Annexure P-16) issued by respondent No.1. Further, a direction has been sought to respondent No.2 to refund the amount of ₹ 70,000/- deposited by the petitioner for the allotment of plot along with interest from the date of deposit till its realization.

2. Respondent No.2 published a Seth Munshi Ram Aggarwal Development Scheme, Fazilak for the allotment of plots by draw of lots vide advertisement (Annexure P-1). In response thereto, the petitioner submitted an application dated 2.9.2014 (Annexure P-2) for allotment of a 100 square yard plot and deposited a sum of ₹ 70,000/- (being 10% of the total price of the plot) by way of banker cheque dated 2.9.2014 (Annexure P-3) to

respondent No.2 vide receipt dated 5.9.2014 (Annexure P-4). The last date for submission of the form for allotment of the plots was 15.9.2014 which was extended by respondent No.2 to 30.9.2014, then to 31.10.2014 and then to 1.1.2015 through public notices (Annexures P-5 to P-7, respectively). Respondent No.2 vide public notice dated 31.3.2015 (Annexure P-8) fixed the date for draw of lots as 31.3.2015. Since respondent No.2 failed to take the applications for allotment of plots and to hold the draw within the stipulated period, the petitioner moved an application dated 5.11.2014 (Annexure P-9) to respondent No.2 for withdrawal of the application form and to refund the earnest money along with interest. Respondent No.2 vide allotment letter dated 1.6.2015 (Annexure P-10) allotted corner plot No.22 to the petitioner and asked him to deposit the remaining 15% of the purchase money plus 10% extra within 30 days from the receipt of the allotment letter. However, the petitioner requested respondent No.2 to refund the amount of ₹ 70,000/- deposited by him for the allotment of plot. When respondent No.2 failed to refund the said amount, the petitioner sent a legal notice dated 17.6.2015 (Annexure P-11) to respondent No.2. Respondent No.2 vide letter dated 5.8.2015 (Annexure P-12) informed the petitioner that there is no provision to refund the earnest money after holding the draw of lots. As per condition No.20 of the brochure (Annexure P-13), if any dispute arises regarding the allotment of plots, the same was to be decided by respondent No.1. Accordingly, the petitioner moved an application dated 1.12.2015 (Annexure P-14) before respondent No.1 for refund the amount of ₹ 70,000/- along with interest, but to no effect. Thereafter, the petitioner sent a legal notice dated 10.4.2016 (Annexure P-15) to respondent No.1 for taking action on the application, Annexure P-14.

In response thereto, respondent No.1 vide letter dated 22.7.2016 (Annexure P-16) filed the same. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has served a legal notice dated 10.4.2016 (Annexure P-15) to respondent No.1 and the same has been filed vide letter dated 22.7.2016 (Annexure P-16) without granting an opportunity of hearing to the petitioner.

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.1 to take a decision on the legal notice dated 10.4.2016 (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 him within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

November 22, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No