

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Writ Petition No. 25027 of 2016

Date of Decision: 5.12.2016

Municipal Corporation, Faridabad through its Senior Town Planner

.....Petitioner

Vs.

Permanent Lok Adalat for Public Utility Services, Rohtak and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. R.D. Bawa, Advocate
for the petitioner

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the impugned award dated 22.7.2016 (Annexure P-9), whereby learned Permanent Lok Adalat (Public Utility Services) Faridabad, allowed the application of respondent No.2 under Section 22-C (I) of the Legal Services Authorities Act, 1987, directing the petitioner-Corporation to deliver the possession of diary plot to respondent No.2, who was allotted the same way back on 2.5.2013.

Heard learned counsel for the petitioner.

It is a matter of record that respondent No.2 was allotted diary plot No. 56 vide memo No. MCF/CMC/2013/980 dated 2.5.2013. In compliance of the said allotment, respondent No.2 made total payment

towards sale consideration, i.e. ₹2,49,996/-, which is again a matter of record. It has also gone undisputed before this Court that said allotment has not been cancelled by any competent authority so far. On the basis of these undisputed facts, learned Permanent Lok Adalat, proceeded on a positive and constructive approach, while passing the well reasoned impugned award, which deserves to be upheld.

The only argument raised by learned counsel for the petitioner is that the allotment made in favour of respondent No.2 was the result of alleged connivance of some officials of the petitioner-Corporation with the allottees like respondent No.2. Having come to know about the alleged connivance of some of the officials/officers of the petitioner-Corporation and some of allottees, petitioner-Corporation sought to enquire into the matter, as pointed out in para 10 of the writ petition. However, it is also a matter of record that neither any departmental action was initiated by the competent authority of the petitioner-Corporation against any of its officials/officers, nor any joint enquiry was conducted against all such erring officials/officers of the petitioner-Corporation, so as to take the matter to its logical end. Reason for not doing so are best known to the petitioner-Corporation itself.

It goes without saying that officials who allegedly connived with some of the allottees are under administrative control of the petitioner-Corporation itself. Had the petitioner-Corporation been serious about this, there would have been no difficulty in initiating the departmental enquiry and after conclusion thereof, appropriate action imposing suitable punishment, could have been easily taken long back. However, no action was taken against any official/officer, who might have allegedly indulged in this kind of unwarranted activity. No plausible explanation is forthcoming

from the petitioner as to why any such action could not be initiated and concluded against erring officials.

In view of what has been discussed hereinabove, it becomes crystal clear that on the one hand, petitioner-Corporation was not intending to take any appropriate action against any of its erring officials/officers and on the other hand, wholly unwarranted and avoidable litigation was imposed upon the allottees, who were making repeated unsuccessful efforts in persuading the petitioner-Corporation, for delivering the possession of the plots allotted to them more than three years ago.

Writing of some letters, including dated 26.5.2016 (Annexure P-6), would be of no consequence, unless there was a will to do something concrete, which has been found conspicuously missing in the present case. It is very easy to allege anything against anybody. It does not appeal to reason at all as to what was the difficulty for the petitioner-Corporation in taking departmental action against officials/officers, who might have acted against the interest of petitioner-Corporation, in the matters of allotment of plots in favour of the allottees.

So far as merits of the case are concerned, learned Permanent Lok Adalat committed no error of law, while passing the impugned award and the same deserves to be upheld, for this reason also. A bare reading of the impugned award dated 22.7.2016 (Annexure P-9) passed by the Permanent Lok Adalat, Faridabad, would show that each and every relevant aspect of the matter was examined, considered and appreciated in the correct perspective, before passing the impugned award.

Learned Permanent Lok Adalat recorded its cogent findings, which have been found based on sound reasons and relevant operative part

thereof, which deserves to be noticed, reads as under:-

“The petitioner has based his claim on the allotment letter issued by the respondent No. 1 in favour of the petitioner. This allotment letter bearing memo No. MCF/CMC/2013/980 dated 2.5.2013 was issued to the petitioner by the respondent No.1 allotting the above diary plot No. 56. For the allotment of this plot in his favour the petitioner had made the total payment of the sale consideration to the tune of Rs.2,49,996/- as admitted in this letter. The petitioner had made initial payment of Rs.62,000/- being the 25% of the total tentative cost of this plot. He then paid Rs. 1,87,996/- and thus the payment of the total tentative cost of this plot was made by the petitioner and then only this allotment letter was issued to the petitioner allotting the diary plot No. 56. Allotment of this plot has not been cancelled by the respondents nor there was anything pleaded in the reply that this allotment letter was not issued by the respondent No. 1. It was also even nowhere pleaded that this allotment letter was not bearing the signature of then Joint Commission having been done on behalf of the Commissioner. In these premises we find no ground to disbelieve this allotment.

The main claim of the respondents was that the name of the petitioner did not figure in the tentative list of the diary owners prepared by the committee constituted by the respondent No.1. Copy of that list has been placed on file. There is nothing in this list where from it could be inferred as to on what basis the same was prepared, when it was prepared and by whom. In these premises after issuing the above allotment letter and receiving the above payment from the petitioner now it does not behove the respondents to claim that the petitioner was not entitled to seek the possession of this plot particularly

when the allotment letter has not been withdrawn by the competent authority nor did it had been cancelled or proved to be fake. In view of all this having come for now when the respondents were not delivering the possession to the petitioner it is certainly a deficiency in service on the part of the respondents who were the initial owners of this estate. Needless to mention her that the respondents are still at liberty to raise demand to any other dues the petitioner was liable to pay against this allotment under any other rule before delivering the possession. But the petitioner was certainly entitled to seek the possession of the above plot.

No other point was advocated before us.

In the result, the present petition is hereby accepted. An award is hereby passed in favour of the petitioner against he respondents directing the respondents to deliver the possession of diary plot No. 56 measuring 25 feet into 75 feet situated at village Basela, Old Faridabad Phase-II and permit the petitioner to deposit the balance payment, if any, required to be made by him for seeking the possession of the plot. No order as to costs. File be consigned to the records.”

A bare perusal of the abovesaid observations made by learned Permanent Lok Adalat would show that neither it exceeded its jurisdiction, nor committed any patent illegality, while passing the impugned award, which has been found based on true facts of the case and the same deserves to be upheld, for this reason as well.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned award passed by the learned Permanent Lok Adalat. Further, no prejudice of any kind, whatsoever, has been pointed out by learned counsel for the petitioner,

which might have been caused to the petitioner-Corporation by passing the impugned award, warranting interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

5.12.2016
Ak Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No