

In the High Court of Punjab and Haryana at Chandigarh.

**CWP-25230 of 2016
Decided on 06.12.2016**

Municipal Corporation, Faridabad

--Petitioner

Vs.

Permanent Lok Adalat for PUS and another

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

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

Rakesh Kumar Jain,J: (Oral)

Learned counsel for the petitioner has submitted that due to inadvertence, Annexure P-7 is numbered as Annexure P-9 and Annexure P-9 as Annexure P-7.

This petition is filed to challenge the award/order dated 22.7.2016 passed by the Permanent Lok Adalat (PUS) Faridabad by which an application filed by respondent No.2 under Section 22 C (1) of the Legal Services Authorities Act, 1987 (for short,'the Act') has been allowed.

Relevant observation of the Permanent Lok Adalat in favour of respondent No.2. are as under:-

“The petitioner has based her claim on the allotment letter issued by the respondent in favour of the petitioner. This allotment letter bearing memo

No.MCF/SMC/2013/5244 dated 15.05.2013 was issued to the petitioner by the respondent allotting the above diary plot No. 107. For the allotment of this plot in her favour the petitioner had made the total payment of the sale consideration to the tune of ₹2,49,996/- as admitted in this letter. The petitioner had made initial payment of ₹62,000/- being the 25% of the total tentative cost of this plot, vide receipt dated 17.08.2006 (Copy placed on file). She then paid ₹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.107. Allotment of this plot has not been cancelled by the respondent nor there was anything pleaded in the reply that this allotment letter was not issued by the respondent. It was also even nowhere pleaded that this allotment letter was not bearing the signature of the then Joint Commissioner having been done on behalf of the Commissioner. In these premises we find no ground to disbelieve this allotment.

The main claim of the respondent was that the name of the petitioner was not mentioned in the tentative list of the diary owners prepared by the committee constituted by the respondent. 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 respondent 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 it had been cancelled or proved to be fake. In view of all this having come to fore now when the respondent was not delivering the possession to the petitioner it is certainly a deficiency in service on the part of the respondent who was the initial owners of this estate. Needless to mention here that the respondent is still at liberty to raise demand of 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 the respondent directing the respondent to deliver the possession of diary plot

No.107 measuring 25 feet into 75 feet situate at village Baselwa, Old Faridabad Phase-II and permit the the petitioner to deposit the balance payment, if any, required to be made by her for seeking the possession of the plot. No order as to costs. File be consigned to the records”.

Learned counsel for the petitioner has submitted that the stand taken by it before the Permanent Lok Adalat was that because of some bungling in the allotment, an enquiry had been ordered, therefore, the Permanent Lok Adalat should not have passed the order and should have awaited the decision in the enquiry.

After hearing learned counsel for the petitioner and perusing the available record, I am of the considered opinion that so-long-as the allotment letter is operative in favour of the allottee, she has a right to seek possession on the basis of allotment letter and in pursuance of which she has paid the money to the petitioner.

Consequently, I do not find any merit in this petition and the same is hereby dismissed.

06.12.2016
rr

(Rakesh Kumar Jain)
Judge

Whether Speaking/Reasoned: **Yes/No.**

Whether Reportable: **Yes/No**