

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 26760 of 2016

Date of Decision: 22.12.2016

The Karan Co-operative Group Housing Society Ltd., Panchkula

....Petitioner.

Versus

Haryana Urban Development Authority, Panchkula and others

...Respondents.

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

PRESENT: Mr. Rajesh Arora, Advocate for the petitioner.

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 demand notice dated 14.1.2016 (Annexure P-25) whereby the petitioner has been asked to deposit the enhanced compensation. Further, a writ of Mandamus has been sought directing the respondents to execute the conveyance deed in favour of the petitioner and to release the enhanced compensation.

2. The plot measuring 1 acre was allotted to the petitioner at the rate of ₹ 2234/- per square meter at the tentative price of ₹ 89,36,000/- vide agreement dated 24.5.1999 (Annexure P-1) and allotment letter dated 8.9.1999 (Annexure P-2). The petitioner deposited the earnest money equal to 25% of the price of the plot vide receipts dated 31.8.1998 (Annexure P-2A) and dated 24.5.1999 (Annexure P-2B). The possession of the plot was

given vide possession certificate dated 28.11.2000 (Annexure P-3).

However, no physical possession of the plot in question was handed over to the petitioner as there was no approach road, no sewerage, no water pipes and no electricity available and the petitioner asked the respondents to provide the physical possession of the plot. The petitioner deposited the next installment vide receipt dated 9.9.2000 (Annexure P-3A). Respondent No.4 vide letter dated 12.1.2001 (Annexure P-4) informed the petitioner that since the approach road is unmetalled, the one year moratorium regarding charging of interest is allowed and the schedule of the payment was revised. In pursuance thereto, the next installment was deposited by the petitioner vide receipt dated 27.9.2001 (Annexure P-4A). The petitioner vide letters dated 6.2.2000 (Annexure P-5) and dated 19.2.2001 (Annexure P-6) requested respondent No.4 to deliver the physical possession of the plot in question. Respondent No.1 vide letter dated 26.2.2001 (Annexure P-7) wrote to respondent No.4 for taking necessary action. The petitioner vide letter dated 23.6.2001 (Annexure P-8) requested for providing physical possession of the plot in question. The respondent vide notice dated 30.9.2002 demanded the enhanced compensation and as such the petitioner deposited the same in two installments vide receipts dated 9.9.2004 and 24.12.2004 (Annexure P-8A Colly). The possession of the plot was delivered to the petitioner in the end of the year 2001 and thereafter the petitioner completed the construction within the stipulated time of four years to claim the rebate. The petitioner vide letter dated 9.5.2005 (Annexure P-9) claimed rebate in the cost of the land and vide letter dated 31.8.2005 (Annexure P-10) informed respondent No.4 that the building is ready for occupation as construction has been completed and furnished various documents for issuance of occupation certificate. Thereafter,

respondent No.4 vide letter dated 25.10.2005 (Annexure P-11) asked the Senior Town Planner and the Superintending Engineer to send the site report regarding grant of 10% rebate on completion of project within four years. The Executive Engineer, HUDA, Division No.1(P) submitted his report to the Superintending Engineer vide letter dated 14.11.2005 (Annexure P-12) that the building had been completed under condition No.3D(i) & (ii) concerning rebate. The petitioner vide letter dated 19.1.2006 informed respondent No.4 that it had deposited the compounding charges and revalidation and plans scrutiny charges vide receipts dated 19.1.2006 (Annexure P-12 Colly). Further, the petitioner vide letter dated 19.1.2006 (Annexure P-13) informed that it had applied for completion certificate on 16.9.2005 and requested for issuance of the completion certificate. A request was made to respondent No.4 vide letter dated 24.1.2006 (Annexure P-6) for rebate of 10% of the land cost in completing construction within four years of the date of handing over the possession and that the petitioner had deposited all the dues payable to HUDA after adjusting rebate at the rate of 10% of the land cost. Vide letter dated 22.2.2006 (Annexure P-15), the petitioner requested for execution of the conveyance deed by furnishing the conveyance deed prepared on non-judicial stamp papers worth ₹ 9,75,000/- and the amount was deposited in the treasury vide receipt dated 21.2.2006 (Annexure P-15A). In response thereto, the petitioner received a letter dated 27.3.2006 (Annexure P-16) that the rebate case is under process and the report of completion of development work was being obtained and asked to submit bank guarantee equal to an amount of 10% rebate in the land cost including interest for ₹ 12,30,525/- so that the occupation certificate could be issued. The HUDA

vide letter dated 3.5.2007 (Annexure P-7) sought information regarding completion of development work from the Executive Engineer. The petitioner furnished a bank guarantee for the said amount issued by the Punjab National Bank in favour of respondent No.4 vide Deed of Guarantee dated 30.4.2006 and requested for issuance of occupation certificate. The HUDA issued occupation certificate dated 21.4.2006 (Annexure P-18). On completion of validity of bank guarantee period of six months, Punjab National Bank wrote a letter dated 12.6.2006 (Annexure P-19) to the HUDA that no claim has been lodged by HUDA before the expiry of validity period and asked to return the original papers, However, the conveyance deed could not be executed. Thereafter, the petitioner received a letter dated 9.4.2009 (Annexure P-20) for depositing the dues equal to ₹ 35,25,000/- and E/Comp of ₹ 31,55,000/-. Vide letter dated 8.7.2010 (Annexure P-21), the petitioner was asked to deposit ₹ 91,07,280/- towards enhancement which was revised to ₹ 68,29,840/- vide letter dated 6.5.2011 (Annexure P-22). The petitioner protested to the applicability of the enhancement vide letter dated 29.7.2010 but deposited the enhanced compensation of ₹ 83,33,839/- in four installments vide receipts (Annexure P-22A colly). The petitioner vide reminders dated 29.4.2011 and 8.7.2011 asked for status of the petitioner with regard to the dues balance and requested to execute the conveyance deed, but to no effect. Some of the societies filed CWP Nos. 14689 and 17239 of 2010 and this court vide order dated 25.9.2013 (Annexure P-23) disposed of the said writ petitions by directing the respondents to pass a speaking order in respect of Sector 20 Panchkula after giving opportunity of hearing to their representatives with regard to enhancement. In response thereto, the Committee vide order (Annexure P-

23A) directed that the re-calculation be done on the basis of 96.24 acres as area for Group Housing Societies in Sector 20 (Part-I), Panchkula. Accordingly, the petitioner moved a representation dated 14.12.2015 (Annexure P-24) to respondents No.1 and 4 for execution of the conveyance deed in its favour and to release the enhanced compensation, but no response has been received till date. Further, respondent No.4 vide notice dated 14.1.2016 (Annexure P-25) raised another enhancement from the petitioner. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a representation dated 14.12.2015 (Annexure P-24) to respondents No.1, and 4, but no action has so far been taken thereon.

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.4 to take a decision on the representation dated 14.12.2015 (Annexure P-4), 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.

(AJAY KUMAR MITTAL)
JUDGE

December 22, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No