

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 29.02.2016.
CM No.2555 of 2016 in/and
CWP No.3039 of 2015

Shiv Raj Gill

.....Petitioner

Versus

State of Punjab and others

..... Respondents

2nd

CWP No.3230 of 2015

Buta Singh and another

.....Petitioners

Versus

State of Punjab and others

..... Respondents

3rd

CWP No.3067 of 2015

Surinder Kaur and another

.....Petitioners

Versus

State of Punjab and others

..... Respondents

4th

CWP No.3068 of 2015

Resham Singh and another

.....Petitioners

Versus

State of Punjab and others

..... Respondents

5th

CWP No.25682 of 2015

Karamjit Kaur

.....Petitioner

Versus

State of Punjab and others

..... Respondents

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

Present : Mr. Salil Sabhlok, Advocate for the petitioner(s).
Mr. Sukhwinder Singh Chatrath, Advocate for the petitioner
(in CWP No.25682 of 2015).
Mr. Alok Jain, Addl.A.G. Punjab.
Mr. R.S.Khosla, Sr. Advocate with
Mr. Sarvesh Malik, Advocate for respondents No.2 to 4.

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

CM No.2555 of 2016

Application is allowed as prayed for and documents (Annexure A-1) is taken on record.

Main cases:-

A similar question arises in all the petitions. We accordingly dispose of all the petitions by a common order and judgment.

2. The petitioners participated in an auction held pursuant to notice dated 1.6.2012, for the allotment of commercial plots. Each of the petitioners having succeeded in the auction were allotted plots on the terms and conditions contained in the allotment letters. The petitioners were required to pay 25% of the bid amount prior to the allotment letter. The balance 75% amount was to be paid either in lump sum with 10% rebate on the balance 75% amount within 60 days of issuance of allotment letter or in

four yearly equated installments with interest @ 12% per annum. There was a further provision of interest @ 18% per annum in the case of delayed payment.

3. The petitioners submit that they did not pay any amount after the issuance of the allotment of letter. We will refer to the facts in CWP No.3039 of 2013. By a letter dated 11.01.2013, the petitioner had demanded building plan for raising construction. It was contended that the Demand Control Sheet was supplied for another site, and that water and sewerage facilities had not been provided. The petitioner, therefore, sought cancellation of allotment and refund of the amount paid. The petitioner addressed a reminder dated 14.02.2013. Thereafter the petitioner addressed a letter dated 12.03.2013, alleging that the drawings had not been issued and asked for refund of the amount paid by him.

4. The Estate Officer, by the impugned order dated 15.04.2013, acceded to the request but only after deducting of 10% of the bid amount. This order was upheld by the appellate authority and by the revisional authority. These orders have been impugned in this writ petition.

5. There is nothing in the allotment letter that entitles the petitioner to avoid making payment on account of the water and sewerage work having allegedly not been carried out. The petitioner was to pay the installments. The petitioner failed to do so. The learned counsel appearing on behalf of the petitioner also failed to indicate any provision either in the notice inviting bids or in the allotment letter which requires the respondents to furnish the building plans to the petitioners.

In the circumstances, the decision to refund the amount after

deducing 10% of the amount paid cannot be faulted.

6. The only issue on which we intend remanding the matter is the extent of the amount forfeited by the respondents. Section 45(3) of the Punjab Regional & Town Planning and Development Act, 1995 entitles the respondents to deduct an amount not more than 10%. This section was amended in December 2013. However, the impugned orders in the present case were passed prior to the amendment. The respondents ought to have furnished reasons for having deducted the amount upto the maximum permissible limit of 10%.

7. The impugned order is set aside only to the extent that it would require the respondents to fix the percentage of the amount to be deducted. The respondent shall pass a fresh order by furnishing the reasons for the same.

8. The writ petitions are accordingly, disposed of.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

29.2.2016

Manoj Bhutani

(ARUN PALLI)
JUDGE