

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

**CWP No.9842 of 2015
Date of Decision : 29.02.2016.**

Harjagdeep Singh

.....Petitioner

Versus

**The Additional Chief Administrator, Greater Mohali Area
Development Authority, and others**

..... Respondents

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

Present : Mr. R.K.Goyal, Advocate for the petitioner.

Mr. Harit Sharma, Advocate for respondent No.1.

Mr. Alok Jain, Addl. A.G. Punjab.

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

The petitioner was allotted a plot pursuant to an auction. The allotment was made in terms of the conditions contained in the allotment letter dated 01.12.2011. Clause 7(vi) thereof reads as under:-

“VI) In case of breach of any conditions of allotment or of regulations or non-payment of any amount due together with the penalty, the plot or building, as the case may be, shall be liable to be resumed and in that case 10% of the total price plus interest due till that date shall be forfeited.”

2. In the present case, the amount deducted towards interest is less

than Rs.60,000/-. Admittedly, the petitioner vide his application dated 11.04.2012, requested the respondents for refund of the amount deposited by him indicating that he did not wish to proceed with the allotment. Accordingly, the amount was refunded after deducting 10% amount as per clause 7(vi) of the allotment letter. This order was upheld by the appellate authority and the revisional authority.

3. In the facts and circumstances of the case, we do not consider it necessary to examine the issue as to whether the respondents are entitled to deduct the amount of accrued interest. This contention has not been raised before the authorities below. In the facts and circumstances of the case, it would not be necessary to examine whether the clause is in the nature of penalty as the issue has not been raised before the authorities below. We do not express any opinion on this aspect in this writ petition.

4. The writ petition is dismissed.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

29.2.2016

Manoj Bhutani

(ARUN PALLI)
JUDGE