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

**RSA-1412-2010 (O&M)
Date of decision : 01.08.2016**

HUDA and another

... Appellants

Versus

Bhagirathi

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Lokesh Sinhal, Advocate
for the appellants.

Mr. Pankaj Gupta, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

AMIT RAWAL, J. (ORAL)

The appellant(s)-HUDA is aggrieved of the concurrent findings of fact, whereby the civil suit at the instance of the allottee of Booth No.242-P, Sector-4, Mansa Devi Complex, Panchkula has been partly decreed.

Mr. Lokesh Sinhal, learned counsel appearing on behalf of the appellant(s)-HUDA submits that total price of the aforementioned booth was ₹ 3,06,900/-. After the payment of 25% of the amount, rest of the amount was to be paid in 10 equal half-yearly installment along with interest @ 15%. The respondent-plaintiff-allottee defaulted in the aforementioned payment, much less, did not pay aforementioned amount

and after complying with the provisions of natural justice, resumption order dated 29.04.2003 was passed. Against the order aforementioned, an appeal under sub-Section 6 of Section 17 of the Haryana Urban Development Authority Act, 1977 (hereinafter called 'the 1977 Act') was filed before the Administrator, HUDA, Panchkula and the same was dismissed vide order dated 24.01.2006. He submits that no revision as per the provisions of Section 17 (8) has been filed. The aforementioned sub-Section 8 had been inserted in Section 17 of the Act vide amendment dated 17.03.2004. In the absence of availing the remedy of revision, the suit was not maintainable, thus, urges this Court for formulation of the substantial questions of law as drawn in the memorandum of appeal.

Mr. Pankaj Gupta, learned counsel appearing on behalf of the respondent(s)-plaintiff(s)-allottee submits that it is categoric case of the HUDA in the grounds of appeal that against the order dated 24.01.2006 of Administrator, HUDA, revision was filed. He has drawn the attention of this Court to the grounds of appeal bearing paragraph No.5. He further submits that the judgment and decree of the trial Court is most innocuous as it has given a direction to deposit the balance amount along with simple interest @ 18% as it is a settled proposition of law that 18% compounded interest cannot be charged from the allottee. His client is willing to deposit the balance amount in two months.

I have heard the learned counsel for the parties and appraised the paper book.

For the sake of brevity, the operative part of the judgment and decree of the trial Court dated 29.01.2009 reads thus:-

“15. In view of the discussion hereinbefore, suit filed by the plaintiffs is partly decreed. The resumption order dated 29.04.2003 issued by defendants qua suit property after making the calculation @ 18% and subsequent proceedings initiated by defendants are set aside. The defendants shall furnish fresh calculation to the plaintiff so as to enable him to pay amount due within a period of one month from today. The plaintiff shall pay the said amount to the defendants within next two months. In case, the plaintiff does not pay the said amount then the defendants shall be at liberty to proceed against the plaintiff in accordance with law. The defendants are restrained from taking possession of Booth No.242-P, Sector -4, Mansa Devi Complex, Panchkula from the plaintiff till continuation of said time period. Decree sheet be prepared accordingly. File be consigned to record room.

Announced 29.01.2009

Sd/-

Addl. Civil Judge (Sr. Divn.)

Panchkula”

I do not intend to devolve upon the merits and demerits of the case, once the direction contained in the judgment and decree is most innocuous and by this time, in case, HUDA had complied with the same, the allottee would have settled the entire claim. Be that as it may, since, the respondent(s)-plaintiff(s)-allottee has undertaken to comply with the aforementioned direction, I direct the HUDA to supply the calculations as per the judgment and decree of the trial Court to the respondent(s)-plaintiff(s)-allottee within a period of one month from the receipt of the certified copy of the order and thereafter, on receipt of the aforementioned calculations, the respondent(s)-plaintiff(s) shall deposit the entire amount

within a period of two months.

The appeal is disposed in the aforementioned terms.

01.08.2016
yogesh

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No