

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

LPA No.1353 of 2016 (O&M)

Date of Decision : 01.08.2016

The Estate Officer, U.T., Chandigarh

....Appellant

Versus

Tulsi and another

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

....

Present: Mr. Vikas Cuccria, Advocate
Standing Counsel for U.T., Chandigarh.

.....

MAHESH GROVER, J.

The appellant is in appeal against the judgment of the learned Single Judge dated 15.03.2016.

It has been urged before us that the Permanent Lok Adalat could only enter conciliation but it has proceeded on the substantive controversy to conclude on the presumption that the legal heirs of Moti were residents of the locality entitling them to consideration of an allotment, whereas they ought to have established their right to allotment independently.

We have repeatedly asked the learned counsel for the appellant to show us the rules or the scheme under which such allotment has to be made which would envisage that if after an eligible applicant dies before allotment, his offsprings could be

denied the allotment of a dwelling unit. No such rules or scheme was brought to our notice. It has also not been denied that the deceased was eligible for allotment. Therefore, to deny the legal representatives of the allotment of a dwelling unit without offering any sustainable reason would be highly unjust.

We have noticed the scheme appended to the appeal where eligibility and mode of allotment has been explained. The same is extracted herebelow :-

“D.Eligibility and Mode of Allotment

6.(a) With respect to every block of a Notified Colony selected for clearance, allotment of a flat shall be made as under :-

- (i) All persons whose names appear in the biometric survey and voter list as on 1.1.2006 shall be eligible for allotment of a flat on license basis. The name of the person should also appear in the latest voter list of the year in which allotment is to be made.
- (ii) A person who owns more than one habitation in any of the Notified Colonies in his own name or in the name of any dependent member of his family shall be entitled to the allotment of only one flat under this Scheme.
- (iii) A family unit shall be entitled to one flat, provided it fulfill all the conditions under this scheme.

- (b) All allotments of flats under this scheme will be on monthly license fee basis consisting of One Room Flat in a multi-story building.”

Clause (i) and (ii), if read together, would mean that all persons whose names appear in the biometric survey and voter list as on 1.1.2006 shall be eligible for allotment of a flat on license basis. It is not in dispute that Moti, deceased father of respondent No.1, in the biometric survey established his residential credentials in the notified colony. The necessary particulars of biometric data also reveal the names of the legal representatives of the deceased, one of them being respondent No.1. The allotment of flat in the scheme was to be made to a family as a unit. Therefore, if the deceased was eligible for the scheme, as established by the biometric survey, then the family of the deceased would be entitled to a dwelling unit. It is not in dispute that not more than one unit is being claimed by the family. The present respondent No.1 and other legal representatives of the deceased would form a part of one family and thus entitled to one dwelling unit.

For the reasons stated above, construing the present respondent/claimant to be a part of the family of the deceased, he would be entitled to a dwelling unit.

That apart, the appeal is also barred by a delay of 107 days which has not been explained satisfactorily.

Appeal dismissed.

(MAHESH GROVER)
JUDGE

01.08.2016
dss

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No