

RSA No.630 of 2011 (O&M)

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

RSA No.630 of 2011 (O&M)

**Date of Decision: March 22, 2016**

Vijay Kumar

...Appellant

Versus

Haryana Urban Development Authority & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Kunal Dawar, Advocate  
for the appellant.

Mr. Suvir Sehgal, Advocate  
for the respondents.

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**AUGUSTINE GEORGE MASIH, J. (Oral):**

**CM No.1712-C of 2011**

Exemption is granted from filing certified copy of Annexure A-1 and copy of the same is taken on record, subject to all just exceptions.

Application stands disposed of.

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Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Senior Division), Faridabad, dated 14.09.2010, whereby, the suit for declaration with consequential relief of permanent and mandatory injunction, preferred by the appellant-plaintiff has been partly decreed by setting aside the order of

resumption and directing the appellant-plaintiff to pay interest, appeal against which preferred by the appellant-plaintiff as also by the respondent-defendants have been decided on 06.01.2011 by the Additional District Judge, Faridabad, by changing the rate of interest as was ordered by the trial Court, increasing it to 18% simple interest till 15.11.2002 and thereafter, at the rate of 14% simple interest with a further direction to deposit the lump sum amount of ₹5,00,000/- within a period of 30 days and the respondent-HUDA to draw the calculation as per the judgment and make adjustments accordingly.

2. It is the contention of the learned counsel for the appellant that the interest at the rate of 18% per annum as ordered by the trial Court is based upon a note mentioned in the allotment letter dated 17.08.1989 (Ex.P-1) which note, admittedly, has neither been signed by any authority nor has it been proved that it was attested by the Competent Authority. He further contends that this 18% interest is neither supported by any rules or instructions which would have been enforced against the appellant-plaintiff. Referring to the said allotment letter(Ex-P-1) ,he contends that the interest, if any, could have been charged at the rate of 10% per annum and not beyond that as there was no such stipulation in the allotment letter.

3. On the other hand, counsel for the respondents, has referred to Clause 8 of the allotment letter (Ex.P-1) to contend that in case, the installments are not paid by the stipulated date, the Estate Officer is entitled and empowered to take action to impose penalty

and resumption of the plot could also be resorted to as provided under Section 17 of the HUDA Act. He contends that the interest in any case is provided under the instructions dated 15.11.2002 to be 14% per annum simple and therefore, the appellant will have to pay at least at the rate of 14% per annum as simple interest from the date of default till the date of payment of the dues. He further contends that as per the note in the allotment letter, interest at the rate of 18% per annum has to be charged and therefore, the appellant is bound by the terms and conditions of the allotment letter which is mandatory and therefore, the judgment and decree passed by the Lower Appellate Court cannot be said to be not in accordance with law.

4. I have considered the submissions made by the learned counsel for the parties and with their able assistance, have gone through the impugned judgment as also the allotment letter (Ex.P-1).

5. A perusal of the allotment letter (Ex.P-1) would show that the interest which is to be recovered in case of payment is made in installments, has been mentioned to be 10% per annum simple. In case of default on the part of the appellant, as per Clause 8 of the allotment letter, penal interest can also be imposed by the Estate Officer. In case the lump sum amount is paid on the allotment, no interest has to be charged. Admittedly, in the present case, appellant has not paid the consideration amount in one go and had preferred the payment through installments, therefore, he was mandated to

pay interest at the rate of 10% per annum simple if paid in time. Keeping in view the fact that he had defaulted in payment of installments, the Estate Officer could impose penal interest as well, as per Clause 8 of the allotment letter and as per the decision dated 15.11.2002, the penal interest has been fixed at 14% per annum simple. The said rate of interest, therefore, is required to be paid by the appellant as per the terms of allotment letter.

6. In view of the above, the judgment and decree passed by the Lower Appellate Court stands modified to the extent that the appellant shall pay interest at the rate of 14% per annum simple. The amount as deposited by the appellant i.e. ₹5,00,000/- as per the order passed by this Court on 04.02.2011, shall be adjusted. In case the amount is found to be in excess, the remaining amount shall be refunded by the respondent-HUDA within a period of two months and similarly, in case some more amount is found due towards the appellant, the same shall be deposited by the appellant within a period of two months from the date of intimation being sent and served to him about the due amount.

7. It is admitted between the parties that till date, the possession has not been taken by the appellant. In case, the appellant moves an application for grant of possession of the plot in question, on completion of the formalities, possession shall be handed over to the appellant within a period of one month from the date of clearance of all the dues.

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**CM No.1713 of 2011**

In view of the order passed in the main appeal, no order is required to be passed in the present application as the same has been rendered infructuous.

Disposed of as such.

**March 22, 2016**

*Harish*

**( AUGUSTINE GEORGE MASIH )  
JUDGE**