

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

LPA No. 792 of 2016 (O&M)

DATE OF DECISION : 02.09.2016

Estate Officer, Union Territory, Chandigarh

.... APPELLANT

Versus

Shobhawati and another

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Suvir Sehgal and Mr. Jaivir Chandail, Advocates,
for the appellant.

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RAMENDRA JAIN , J.

1. The Chandigarh Administration, after conducting a bio-metric survey in the month of March, 2006, identified 18 colonies, which had come up unauthorisedly and illegally by encroaching upon the public lands without having any basic amenities and facilities. Consequently, vide Notification dated 06.11.2006 (Annexure P-1), a scheme in the name of “Chandigarh Small Flat Scheme, 2006” (hereinafter referred to as ‘Scheme of 2006’) for allotment of residential one room flats on monthly license basis was notified. In pursuance thereof, husband of Smt. Shobhawati (respondent No.1 herein) submitted an application (Annexure P-3) for allotment of a flat. Before his case could be considered for allotment of an alternative site under the said scheme, he died. Thereafter, respondent No.1 approached the Permanent Lok Adalat (Public Utility Services),

Chandigarh, by filing an application dated 26.11.2013 (Annexure P-4) for

allotment of alternative site, which was allowed vide order dated 06.02.2014 (Annexure P-6), directing the appellant to allot an alternate site to respondent No.1. The said order was challenged by the appellant by filing CWP No. 25595 of 2015, which has been dismissed by the learned Single Judge vide order dated 07.12.2015.

2. Hence, the appellant has approached this court by way of instant appeal under Clause X of the Letters Patent challenging the aforesaid order dated 07.12.2015 passed by the learned Single Judge.

3. The sole argument raised by learned counsel for the appellant is that since respondent No.1 did not have the votes for the year 2004 to 2008, therefore, she was not a “Recognized Resident” as defined in the Scheme of 2006 and thus was not eligible for allotment of flat under the Scheme of 2006.

4. After hearing learned counsel for the appellant and perusing the Scheme of 2006 as well as the impugned order passed by the learned Single Judge, we do not find any substance in the aforesaid submission. Admittedly, husband of respondent No.1 (now deceased), who originally applied for allotment of flat under the Scheme of 2006, participated in the bio-metric survey, which is one of the principle modes of recognition to establish a ‘recognized resident’ to enable him/her to the benefits of the Scheme. In the said survey, respondent No.1 was recorded as wife of the original applicant residing with him. Unfortunately, before allotment could be made, the original applicant died. Thus, merely because in the voter list for the years 2004 to 2008, name of respondent No.1 does not find mention, it cannot be said that she is not a “Recognized Resident” under the Scheme of 2006, particularly when in the bio-metric survey, her husband being the

original applicant participated and she was recorded as his wife residing with him. This aspect of the matter has also been dealt with by the learned Single Judge, and we do not find any perversity in the observations made in the impugned order, in this regard.

5. Appeal is, accordingly, dismissed.

6. There is a delay of 77 days in filing the appeal. An application (CM No.1613-LPA of 2016) has been filed for condonation of the said delay. Since the appeal has been dismissed on merits, therefore, no further orders are required to be passed in the application for condonation of delay in filing the appeal and the same is disposed of as such.

**(RAMENDRA JAIN)
JUDGE**

September 02, 2016
ndj

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No