

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1138 of 2016 (O&M)

Date of Decision: 15.02.2017

Neena Mongia & Anr.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

Present: Mr. Raman Gaur, Advocate for the petitioners

Mr. Deepak Balyan, Addl. AG Haryana

Mr. Deepak Sabharwal, Advocate for HUDA

SURYA KANT, J. (Oral)

(1) The challenge in this writ petition is laid to the order dated 13.05.2014 passed by the Principal Secretary to Government of Haryana, Town and Country Planning Department-cum-Revisonal Authority under the HUDA Act.

(2) We have heard learned counsel for the parties and gone through the impugned order.

(3) The controversy pertains to resumption of residential plot bearing No.260P, Sector 21C, Urban Estate, Faridabad measuring 500 sq.yards which was to be transferred from the original allottee in favour of the petitioners through their GPA. It appears that while the transfer application was pending, the allotment was cancelled and site was resumed. The petitioners challenged those orders before the appellate authority and their appeal was accepted vide order dated 09.05.2011 (P4).

(4) Being aggrieved, the HUDA challenged the same by way of revision petition which was filed after a delay of one year and eight months.

The Revisional Authority while dealing with the application for condonation of delay has observed as follows:-

“...Moreover, the appeal was decided by the Administrator, Faridabad on 09.05.2011 whereas the present Revision Petition has been filed by the Estate Officer, Faridabad on 29.04.2013 i.e. after a delay of almost 1 year and 8 months. Though, the Estate Officer, Faridabad has filed an application for condonation of delay but the same does not find mention of the number of days of delay which shows non application of mind by the Estate Officer, Faridabad while filing the Revision Petition. The grounds of Estate Officer, Faridabad for condonation of delay are not convincing one as even after the decision of filing of Revision Petition at the level of HUDA HQ, the Estate Officer, Faridabad has delayed the filing of Revision Petition by more than one year.”

(emphasis applied)

(5) Despite holding that there was inordinate delay in filing the revision petition or that the delay was not explained and the revision petition could not be filed after such a long delay, the Revisional Authority, in the ultimate paragraph of the order, has dealt with the case on merits thereby burdening the petitioners with a heavy financial liability towards ‘extension fee’.

(6) In our considered view, the Revisional Authority was obligated to firstly determine whether or not the revision petition was liable to be dismissed on the ground of delay and if the authority was satisfied that there was no

convincing explanation for condoning the delay and the revision petition was to be dismissed being time barred, the Revisional Authority could not have expressed views on merits. Conversely, if the Revisional Authority was satisfied with the explanation to condone the delay, then it was obligated to decide the revision petition on merits. Since the impugned order is self-contradictory, the writ petition is allowed in part; the impugned order dated 13.05.2014 is set aside and the Revisional Authority is directed to decide the petitioners' revision petition as well as application for condonation of delay by passing a fresh order after hearing the parties, within a period of three months from the date of receipt of certified copy of this order.

(7) Ordered accordingly.

(Surya Kant)
Judge

15.02.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

1. Whether speaking/reasoned?	Yes
2. Whether reportable?	No