

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

CWP No 13449 OF 2015
Date. of decision: 12.09.2017

Rajmal

.. Petitioner

vs.

State of Punjab and ors.

.. Respondents

Coram: **HON'BLE MR.JUSTICE S.J.VAZIFDAR,CHIEF JUSTICE
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU**

Present:- Mr. G.S. Kaura,Advocate
for the petitioner.

Mr. Sahil Sharma, Deputy Advocate General, Punjab

Mr. Balwinder Singh, Advocate
for respondents No. 3 and 4.

S.J. VAZIFDAR, CHIEF JUSTICE (ORAL)

The petitioner seeks a writ of certiorari to quash the orders of the respondents dismissing his appeal and revision petition. The petitioner filed an appeal to enforce his right in respect of the allotment of a plot.

2. On 08.02.2012 the respondents held a draw of lots. The petitioner was successful at the draw and a letter of allotment dated 09.03.2012 was issued in his favour. The petitioner contends that the letter of allotment was never received by him. The respondents, on the other hand, contend that the letter of allotment was forwarded by RPAD but that they have not received the acknowledgement from the postal authorities.

3. It is contended on behalf of the respondents that the Court must presume that the letter which was posted, was infact received by the petitioner as the same had never been returned to the respondent, undelivered.

4. In the facts and circumstances of the case, we are not inclined to draw such a presumption against the petitioner. There is nothing to indicate that the petitioner did not accept the allotment letter. The facts indicate the contrary. The petitioner states that he was informed about the letter of allotment dated 09.03.2012 by a property dealer. He made enquiries regarding the letter of allotment. Vide letter dated 18.05.2012 the petitioner informed the respondents the above facts including that he had not received the letter of allotment. He further stated that he was ready to deposit 15% of the amount against the plot. Thus, within a period of two months, the petitioner informed the respondents that he had not received the letter of allotment. If he was not interested in the allotment, he would not have addressed the letter dated 18.05.2012. However, the respondents, did not reply to the said letter. They neither stated that the letter had infact been forwarded by them nor did they offer to forward a copy thereof to the petitioner to enable him to avail the benefit of the allotment.

The petitioner, thereafter, filed an appeal on 03.07.2012. Time was spent thereafter prosecuting the appeal, which was dismissed. The revision application was also dismissed on 30.05.2013.

5. There is however a delay of over two years in filing the petition. In the facts and circumstances of the case, we do not intend rejecting an otherwise just claim for this reason. The petitioner had throughout pursued his rights diligently. There is no indication of abandonment of this right. We are informed that the plot is still available. Had it not been available, we may not have granted the relief to the petitioner on account of the delay in filing this petition.

6. The learned counsel appearing on behalf of respondents No. 3 and 4 states that the petitioner himself intends selling the plot to a property dealer. The petitioner denies this allegation and to establish his bona fides has made a statement which is recorded hereafter.

7. The ends of justice would be met by allowing the petition but on the condition that the petitioner pays the entire amount together with penalty interest as applicable till the date of payment. The respondents shall inform the petitioner in writing the amount payable. The petitioner shall pay the amount as demanded within four weeks of the receipt of the demand in writing. The petitioner would be at liberty to challenge the demand but only after first paying the entire amount, failing which this order shall be deemed to have been vacated without further reference to the Court. In the event of the petitioner paying the amount, the respondents concerned shall issue the letter of allotment and complete the process regarding the allotment.

Mr. Kaura's statement that the petitioner will not sell, dispose of, alienate, encumber or create any right, title or interest in the property in question upto at least 31st December 2019, without the written consent of the respondents concerned is accepted and it is so ordered.

8. The petition is accordingly disposed off.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

12.09.2017
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Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No