

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

CWP No. 14845 OF 2015
Date of decision: 19.07.2017

Risham Singla .. Petitioner

vs.

State of Haryana and others .. Respondents

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

Present:- None for the petitioner.

Mr. Deepak Balyan, Advocate
for respondents No. 2 and 3.

S.J. VAZIFDAR, CHIEF JUSTICE (ORAL)

The petitioner seeks an order directing the respondents to hand over possession of a plot in New Mandi Dabwali, Haryana. The petitioner does not seek refund of money.

2. The plot was allotted to the petitioner on 29.06.1995 pursuant to an auction process. The petitioner paid an aggregate amount of 25% of the price. However, he paid only two installments thereafter.

3. The petitioner filed a suit in the Court of Civil Judge (Junior Division), Dabwali seeking a permanent injunction restraining the respondents from recovering any interest on the ground that the area was not developed and an order restraining the respondents from cancelling the allotment. It is contended that the suit was withdrawn as the petitioner was advised that it was not maintainable.

4. The petitioner, thereafter, on 19.01.2001 filed a complaint before the District Consumer Protection Forum, Sirsa. It is important to note that the only relief claimed by the petitioner was refund of the amount deposited by him alongwith interest and for compensation on account of

escalation costs of construction as well as for mental agony and torture. The petitioner did not seek the allotment of the plot. The petitioner, therefore, clearly abandoned his claim for the allotment of the plot itself. A reading of the entire complaint also makes this clear.

The District Consumer Disputes Redressal Forum, Sirsa vide order dated 22.10.2002 directed the respondents to refund the amount of ₹ 2,32,750/- with interest @ 9% per annum. There was no question of directing the respondents to allot the plot as that relief had not been sought.

5. The respondents filed an appeal before State Consumer Disputes Redressal Commission, Haryana, which was allowed on 02.03.2010 on the ground that the complaint was not maintainable.

What is important to note is that the petitioner had no grievance against the order and did not challenge the same. The petitioner at least at that time did not even seek the allotment of a plot and restricted his claim to a refund of money and for monetary compensation. In the circumstances the fact that the complaint was held by the Appellate Authority to be not maintainable makes no difference.

6. Vide letter dated 09.09.2010 the petitioner sought allotment of the plot stating that he had come to learn that the construction in the area was complete. Even at that stage, the petitioner was not entitled to seek the allotment of the plot having abandoned the claim for the same restricting his claim only for money. The present writ petition for the allotment of the plot cannot be allowed for this reason. Moreover, this writ petition was filed only in the year 2015, which cannot be possibly be allowed.

7. In the circumstances, the petition is dismissed.

The petitioner is at liberty to file any proceedings for refund of the amount, which shall be decided in accordance with law. Further the petitioner is at liberty to consider and accept any offer that may be made by the respondents for allotment of the said plot on terms and conditions, which may be agreed on between the parties.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

19.07.2017
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Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No