

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-19817-2016

Date of Decision: January 30, 2017

Captain Siddharth Mohan

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE HARI PAL VERMA

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Vinod Bhardwaj, Advocate
for the petitioner.
Mr.Deepak Balyan, Advocate
for respondent Nos.2 and 3.

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SURYA KANT, J.

Written statement filed on behalf of respondent Nos.2 and 3 is
taken on record.

[2] Heard learned counsel for the parties.

[3] The petitioner was allotted industrial plot No.193 measuring
2300 sq.yards in Sector 27 and 28, Hisar on 14.08.2008. Clause 6 of the
allotment letter provides that "*the possession of the site will be offered to
you on completion of development works in the area. In the case of
undeveloped land or building the possession shall however, be delivered
within 90 days from the date of issue of this allotment letter.*"

[4] On 14.08.2008 itself the authorities vide letter Annexure P-2,
informed the petitioner that development works, namely, water supply,
approach road, sewerage and electrification have been completed and
therefore, he could take possession of the plot. Factually, the possession

was not given to the petitioner, who on 11.11.2008 (Annexure P-3) requested the Estate Officer that he wants to start construction over the plot therefore possession may be delivered. It appears that meanwhile allotment of industrial plots was challenged before this Court and the writ petitions filed in the year 2008 was finally disposed of on September 09, 2011 in terms of an undertaking given by the HUDA authorities that a Committee will be constituted to examine the issues raised by writ petitioners. Due to pendency of those proceedings, physical possession of the site was not delivered hence the petitioner on June 11, 2012 requested the Estate Officer that now the Court case was over, hence the payment of installments may be rescheduled and possession of the plot may be given at the earliest. But the Estate Officer informed the petitioner on 05.10.2012 that the matter had been referred to Administrator, HUDA for taking appropriate decision. It further appears that the Chief Administrator, HUDA who vide Memo dated 09.04.2013 (Annexure P-10) informed the Administrator HUDA at Hisar that extension may be granted to the allottees as per EMP 2011 Policy by charging the prescribed extension fee. Finally, the possession was delivered to the petitioner on 22.05.2013 (Annexure P-14).

[5] The short question that arises for consideration is whether in the facts and circumstances of this case the petitioner should be taken to have been given physical possession of the plot on 11.11.2008 or on 22.05.2013? If so, what would be the effect of the date of delivery of physical possession?

[6] The facts culled out from the official documents on record

possession in the year 2008 but the Authorities did not deliver the possession for the reason that the allotment itself came under clouds and was challenged in a set of writ petitions before this Court. It was only after decision of those Court cases on September 09, 2011, that the petitioner again approached HUDA for the delivery of physical possession and finally it was delivered to him on 22.05.2013. We have thus no hesitation in holding that physical possession of the plot was actually delivered to the petitioner only on 22.09.2013.

[7] As regard to the effect of delivery of possession of the plot on 22.05.2013, the necessary consequences are bound to follow, namely, liability of the petitioner to pay the extension fee and/or penalty/interest etc. shall have to be re-determined on the assumption that physical possession of the plot was delivered to him on 22.05.2013.

[8] Ordered accordingly.

[9] The impugned order (Annexure P-21) is set aside.

[10] This order shall have however no bearing on the enquiry, if any, pending qua the genuineness/validity of the allotment letter.

(SURYA KANT)
JUDGE

January 30, 2017
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(HARI PAL VERMA)
JUDGE

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