

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**Civil Writ Petition No.23672 of 2015 (O&M)**

**DATE OF DECISION: 26.07.2017**

M/s Radha Trading Company

..Petitioner

versus

State of Haryana and others

.....Respondents

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

**Present:** Mr. Vishal Sodhi, Advocate for the petitioner.  
Mr. Deepak Balyan, Addl. Advocate General, Haryana,  
for the respondents.

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**S.J. VAZIFDAR, CHIEF JUSTICE:**

Respondent No.1 is the Financial Commissioner and Principal Secretary to the Government of Haryana. Respondent No.2 is the Haryana Urban Development Authority (HUDA). Respondent Nos.3 and 4 are the Administrator and Estate Officer of HUDA.

2. The petitioner has challenged an order of resumption of a plot passed by respondent No.4, the dismissal of his appeal against that order by respondent No.3 and the dismissal of his revision application by respondent No.1. The petitioner has also sought a writ of mandamus directing the respondents to restore the plot which was allotted in his name on 11.10.1994 almost 23 years ago. The petitioner was allotted the plot in a scheme for rehabilitation of iron merchants of Faridabad.

3. The letter of allotment dated 11.10.1994 mentioned the address of the petitioner as B-494, Nehru Ground, NIT Faridabad. He paid 25% of the consideration within the stipulated period of 30 days from the date of issue of the letter but failed to pay the balance amount of about Rs.3,04,000/- which was payable either in a lump sum within 60 days from the date of the letter of allotment or in eight equal half yearly installments together with interest. The installments were payable with interest at the rate of 15% per annum. 18% interest was payable on the delayed payment. Clause 8 stipulated that if the installments were not paid, the Estate Officer shall proceed to take action for imposition of penalty and resumption of the plot. Clause 22 stipulated that separate notice would not be sent for payment of installments and that information regarding the amounts due may be sent only as a matter of courtesy.

4. By a letter dated 17.04.1996, the petitioner was informed by the respondents that the compensation had been enhanced by the Reference Court and that he was liable to pay an amount of about Rs.2,32,417/- on account thereof. The petitioner failed to pay the same. The respondents claimed to have served four notices under section 17 of the Haryana Urban Development Authority Act, 1977 on 31.12.2000, 01.06.2001, 19.07.2001 and 17.09.2001. The petitioner did not respond to the same. It was contended before us that the notices were served at premises No.494 and that the petitioner, therefore, did not receive the same. There was some dispute regarding the same. The authorities however, held that the petitioner was aware of these notices. Infact, in one

of the proceedings the petitioner even mentioned his premises as bearing No.494. The petitioner, however, contended that it was the previous address and the address in the allotment letter was No.493 and that the notices should have been sent at that address. The allotment letter itself seems to have an overwriting in regard to the number of premises allotted to the petitioner.

5. It is not necessary however for us to consider these facts as we have decided to dismiss the petition on the ground of delay. Although we are normally liberal in condoning such delays in the facts and circumstances of the present case, we are not inclined to do so. This is not a case of mere delay. It is a case of abandonment. The petitioner had lost interest in the plot and did not intend pursuing the allotment. Five years later he changed his mind probably due to the rise in prices. It would be unfair then to the respondents to overlook the gross delay on the petitioner's part.

6. The resumption order was passed on 26.04.2002. The petitioner filed an appeal only on 10.07.2007 i.e. after over five years. It is pertinent to note that in paragraph-2 of the appeal, the petitioner stated that due to financial difficulties he was unable to deposit the remaining installments in respect of the plot and that the enhanced amount had been stayed by an order of this Court. In paragraph-3 the petitioner further stated that he was "now" ready to deposit 8 installments alongwith simple interest towards the plot in question. The petitioner further sought a waiver of the penalty imposed.

What is even more important is the application for condonation of delay in filing the appeal. The only ground for condonation of delay is that the petitioner visited the office of the respondents several times for the settlement of the dispute of installments and enhanced price regarding the plot in question but the officials of the respondents did not settle the dispute as regards the enhanced price or the installments and also refused to waive the penalty.

7. The above facts indicate that this is not a matter of mere delay. The petitioner infact was not interested in proceeding with the allotment and therefore, did nothing for five years after the order of resumption. The petitioner admittedly did not pay the money and did not intend doing so albeit allegedly due to financial difficulties. There are no details of the alleged financial difficulties.

8. The appeal and the application for condonation of delay establish important aspects. No particulars as to when the petitioner visited the office of the respondents are furnished. No particulars as to the officer that the petitioner met are furnished. The petitioner does not even suggest that throughout this period of five years or even for a substantial part thereof negotiations continued. Moreover, the application for condonation itself states that the petitioner tried to settle the matter as regards the installments and the enhanced compensation. This itself indicates that the petitioner was not even willing to pay the installments or the enhanced amount. It is obvious to us, therefore, that the petitioner had abandoned his interest in the plot on the terms and conditions on which it had been

allotted and sought a reduction in the price. The appeal was, therefore, a change of mind probably on account of the prices having increased in the meantime.

9. It would be unfair to the respondents to permit the allottees to speculate in respect of such allotments. The allottees cannot at their option rescind or abandon the contract at one point of time and thereafter seek to enforce the same. This would encourage speculation in such matters. Had it been a case of mere delay and nothing more we may have considered overlooking the same. This, however, is not such a case.

10. In the circumstances, the orders rejecting the appeal and the revision application on the ground of delay are justified. In view thereof it is not necessary to consider the other questions.

11. The writ petition is, therefore, dismissed.

**(S.J. VAZIFDAR)**  
**CHIEF JUSTICE**

**26.07.2017**

ravinder

**(HARINDER SINGH SIDHU)**  
**JUDGE**

**NOTE:**

**Whether speaking/non-speaking: Speaking√**

**Whether reportable: Yes√**