

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-2865-2014 (O&M)

Date of Decision: February 01, 2017

Lekh Raj Arora

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

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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.Vikram Singh, Advocate
for the petitioner.

Mr.Deepak Balyan, Addl.AG, Haryana.
Mr.Deepak Manchanda, Advocate
for respondent Nos.2 and 3.

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SURYA KANT, J.

The petitioner was allotted of Plot No.1486, Sector 7, Urban Estate, Karnal vide allotment letter dated 02.11.1988. As per terms and conditions of allotment, the petitioner was required to construct the plot within the stipulated period, which according to HUDA expired on 31.12.2007. Consequently, the petitioner has been subjected to 'extension fee' for the years 2008 to 2013. Pursuant to the directions issued by this Court in an earlier writ petition, the Estate Officer, HUDA, Karnal, has passed the speaking order, dated 29.11.2013 rejecting the petitioner's claim for exemption from 'extension fee'. It is explained in the speaking order that

the petitioner sought exemption on the plea that a civil suit was pending between him and one Sanjeev Kumar, qua the relief for specific performance as well as permanent injunction in respect of the subject plot, due to which the plot could not be constructed. The Estate Officer has not accepted the plea on the ground that it was a private dispute and the civil Court rejected the plaint on 20.03.2010. Civil revision preferred in the High Court was also dismissed as withdrawn on 12.11.2010. There was, thus, no impediment against raising construction during the pendency or immediate after decision of the civil suit.

The petitioner filed appeal against the order of the Estate Officer but the Administrator, HUDA, Panchkula, has rejected the same on the plea that it is not maintainable.

One of the contention raised on behalf of the petitioner is that while his case re: exemption from the extension fee was pending, HUDA has issued yet another Policy decision dated 12.04.2013, whereunder benefit of two additional years for completion of construction has been granted to all the allottees. In this manner, the petitioner claims to be entitled to extension from 31.12.2007 to 31.12.2009. Resultantly, the extension fee, at the best can be levied on him for the years 2010 to 2013 which would substantially reduce the liability.

It may be noticed that the petitioner has already deposited the entire extension fee, though under protest.

In this view of the matter, it appears to us that the contention raised by the petitioner re: benefit of the Policy decision dated 12.04.2013

requires consideration at the hands of the HUDA authorities.

The writ petition is accordingly disposed of with a direction to the Administrator HUDA, Panchkula, to entertain the appeal-cum-representation preferred by the petitioner and decide the same with specific reference to the question as to whether he is entitled to the benefit of Policy decision dated 12.04.2013? If it is found that the Policy has uniform applicability qua all the allottees including the petitioner, let its benefit be extended to him as well. In that event the petitioner would be liable to pay extension fee for the years from 2010 to 2013 only.

The Administrator HUDA, Panchkula is directed to pass a reasoned order within a period of four months from the date of receipt of a certified copy of this order and if the petitioner is found entitled to any refund the same shall be made within one month thereafter.

(SURYA KANT)
JUDGE

February 01, 2017
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(SUDIP AHLUWALIA)
JUDGE

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