

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 5846 of 2015 (O&M)
Date of Decision: 20.12.2017

Bhupinder Kohli

.....Petitioner

versus

Estate Officer, Punjab Urban Planning and Development Authority, Patiala and others

.....Respondents

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

Present : Mr. Vinod K.Kataria, Advocate, for the petitioner.

Mr. Rupinder Khosla, Senior Advocate with
Mr. Sarvesh Malik, Advocate, for respondent Nos.1 and 2.

Mr. PPS Thethi, Addl. Advocate General, Punjab
for respondent No.3.

S.J.VAZIFDAR, CHIEF JUSTICE

The petitioner has challenged the orders dated 20.04.2012, 30.11.2012 and 11.12.2014 passed by respondent Nos.1, 2 and 3 respectively to the extent that they forfeited certain amounts paid by the petitioner in respect of the allotment of a SCO site in his favour.

2. The petitioner was successful at an auction held by the respondents in respect of an SCO site. The respondents issued a allotment letter dated 05.07.2011. Clauses 1(iii) and 8(i) of the allotment letter read as under:-

“1. ALLOTMENT OF COMMERCIAL SITE:

(iii) Site is being offered as “as is where is basis” and authority will not be responsible for leveling the site or removing the structures, if any, thereon. All applicable charges promulgated by Government or any local or statutory authority other than those for CLI, License fee and EDC will be payable over and above the consideration amount as and when due. Any dues relating to period prior to the sale will be borne by PUDA.”

8. GENERAL

(i) This allotment shall be governed by the provisions of Punjab Regional and Town Planning and

Development Act, 1995, Rules and Regulations framed thereunder, as amended from time to time.”

3. The petitioner raised certain grievances for not having provided necessary facilities by the respondents. Ultimately, the petitioner by a letter dated 16.03.2012 surrendered the premises and requested the respondents to refund the amount deposited by him. The respondents by their respective impugned orders refunded the amount but only after deducting certain amounts purportedly in exercise of the powers under section 45(3) of the Punjab Regional and Town Planning and Development Act, 1995.

4. This case is covered by our orders and judgments in *Puneet Singh v. Special Secretary, Department of Housing and Urban Development Government of Punjab*, Civil Writ Petition No. 17392 of 2015 (dated 06.09.2017) and *Ramesh Kumar and others v. State of Punjab and others*, Civil Writ Petition No. 6690 of 2017 (dated 20.12.2018). The petitioner’s case is to be considered under the unamended Section 45(3) of the Act as the allotment letter is prior to the amendment of Section 45(3) on 05.12.2013. The impugned orders in the case before us do not contain any reasons for forfeiting the amounts to the maximum extent permissible under section 45(3) of the Act.

5. In the circumstances the petition is disposed of by setting aside the impugned order dated 11.12.2014 and remanding the matter to the Revisional Authority to decide the quantum of forfeiture after affording an opportunity of being heard to the petitioner.

(S.J. VAZIFDAR)
CHIEF JUSTICE

20.12.2017
ravinder

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/Nov/