

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.786 of 2017.

Date of Decision: January 18, 2017

Santosh Memorial Education and Welfare Society .....Petitioner  
versus  
Haryana Urban Development Authority and others .....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.  
HON'BLE MR.JUSTICE GURMIT RAM.**

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Present: Mr.Sourabh Goel, Advocate, for the petitioner.

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**Surya Kant, J.** (Oral)

The question which falls for consideration in this writ petition is whether the HUDA authorities were at fault in allotting the school site to the petitioner where a Community Park had already been developed or it was the petitioner who was reluctant to take possession of the allotted site and was more keen for the refund of amount deposited by it?

Such a disputed question of fact is discernible from the following conclusion drawn by the Administrator, HUDA, Faridabad in his order dated 05.06.2014 (P-10):-

“..... I have heard both the parties and perused the record placed before me. Estate Officer, HUDA, Faridabad had auctioned the site on 29.02.2008. Allotment letter was issued by the Estate Officer on 29.08.2008. Thereafter there was some dispute regarding the payment, hence possession was not offered. The dispute was settled by the then Administrator vide order dated 07.01.2009 and offer of possession was also made by the Estate Officer on

21.01.2009. A perusal of the Estate Office file reveals that the appellant submitted an application vide EO No.1660 dated 18.02.2009 in which he stated that “a community park has come up on the site.... We do not want to get into any dispute.... it would be better that HUDA returns the money deposited by us with interest as per bank interest rate immediately”. On NP-2, noting dated 15.12.2009 and 07.01.2010, the SDE(s) has stated that possession of the site can be offered. Vide letters dated 14.01.2010 and 16.02.2010 the allottee was again directed to take possession of the site on any working day. Vide letter dated 18.02.2010, the allottee requested the Estate Officer to refund with interest and close the matter. Vide letter dated 26.03.2010 refund office receipt No.2822, the allottee again requested the Estate Officer to refund his deposited amount with 24% rate of interest. Taking cognizance of the above mentioned requests of the allottee, the Estate Officer refunded through cheque Rs.29.00 lakhs on 22.07.2010 which was encashed by the allottee on 3.8.2010 and Rs.2000/- were refunded on 5.11.2012 and also encashed by the allottee. Thus the total amount has been refunded by the Estate Officer on the request of the allottee and he has not only received the refunded amount without protest but also encashed the refunded amount.....”

(emphasis applied)

In the instant writ petition, the petitioner asserts that since the site allotted to it was a disputed one as the Community Park had been set-up there, hence the officers who were responsible for allotting such disputed site as well as HUDA are jointly and severely responsible for the interest which petitioner must be awarded.

Having heard learned counsel for the petitioner, it appears to us that there are seriously disputed questions of facts involved in this case. It is after consideration of the evidence that the question whether possession of the site allotted to the petitioner could not be delivered to it or it was the petitioner who was reluctant in taking such possession, can be determined. The answer to such question will further determined the consequential claim of the petitioner towards interest. We thus decline to entertain this writ petition and relegate the petitioner to the appropriate forum including the civil court.

The writ petition stands disposed of accordingly.

**[SURYA KANT]**  
**JUDGE**

January 18, 2017  
*mohinder*

**[GURMIT RAM]**  
**JUDGE**

|                                  |          |               |
|----------------------------------|----------|---------------|
| <b>Whether speaking/reasoned</b> | <b>:</b> | <b>Yes/No</b> |
| <b>Whether Reportable</b>        | <b>:</b> | <b>Yes/No</b> |