

Civil Revision No.7996 of 2018 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.7996 of 2018 (O&M)

Date of Decision: November 27, 2018

Kiran Bala

...Petitioner

Versus

Haryana Urban Development Authority & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Surinder Singh Walia, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

The present revision is directed against the impugned order, whereby at the fag-end of the trial in a suit for mandatory injunction preferred by the petitioner-plaintiffs against the erstwhile Haryana Urban Development Authority directing them to issue completion certificate in respect of House No.2124, Sector-2, Urban Estate, Ballabgarh, Faridabad and also to execute and register the conveyance deed, amendment sought to incorporate following relief of declaration has been declined:-

“19-A That Memo No.7483 dated 8.4.2013, having the details of letters No.9690 dated 8.5.2013, 12034 dated 28.5.2013, 18178 dated 23.8.2013, 20962 dated 24.7.2013 and 19459 dated 7.8.2013, duly issued by Estate Officer, HUDA i.e. defendant No.2 in the name of plaintiff vide which the defendants have informed the plaintiff that “the Hon'ble State Commission, Haryana vide order dated 29.3.2012 has accepted the approval of HUDA and dismissed the order dated 05.12.2005 passed by the Distt.Consumer Form Faridabad, therefore, amount after deduction as per surrender policy of HUDA, remaining amount of Rs.516343/- deposited by you is hereby refunded vide cheque No.303376 dated 03.4.2013 and

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you have no more claim of this plot.

The plaintiff never received the above said letters except letter bearing Memo No.7483, thereafter the plaintiff through her G.P.A. returned back the said memo alongwith cheque with a request that the order of State Commission has been challenged before the Hon'ble National Consumer Disputes Redressal Commission, New Delhi. After that the plaintiff through his G.P.A. never received any letter from the defendants.

Hence the above said impugned memos are liable to be declared as null and void and the plot in question is liable to be entered to the name of plaintiff, being absolute allottee/owner thereof.”

Mr. Surinder Singh Walia, learned counsel representing the petitioner submitted that no hardship and prejudice would be caused to the respondents and if the amendment is allowed does not amount to alteration in the nature and cause of action of the suit as the documents sought to be challenged go to the root of the controversy in hand.

I am afraid that the aforementioned argument is not sustainable as the documents, which were prior to the filing of the suit, cannot be permitted to be incorporated by allowing the amendment at this stage. It tantamounts to *de novo* trial, much less falls within the expression “despite exercise of due diligence”. In other words, the petitioner has miserably failed to explain the cogent reasons of not seeking the declaration. The impugned findings cannot be said to be suffering from illegality or without jurisdiction. Resultantly, the revision petition is dismissed.

November 27, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No