

Gurbax Singh
2018.04.17 15:03

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 16823 of 2015
Date of decision: 20.3.2018**

Ram Chander Chutani

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. Harkesh Manuja, Advocate for the petitioner.
Mr. D.R.Singla, DAG, Haryana.
Mr. Lokesh Sinhal, Advocate for respondent Nos. 3 and 4.

Ajay Kumar Mittal,J.

1. Through the instant petition filed under Articles 226/227 of the Constitution of India, the petitioner prays for quashing the order/proceedings dated 28.3.2012, Annexure P.8 sent to him vide letter dated 12.6.2012, Annexure P.9 whereby the appeal filed by him against the resumption order dated 6.7.2010, Annexure P.3 has been dismissed by respondent No.2.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner was allotted an industrial plot No.241, Phase I, Industrial Estate, Barhi, District Sonapat vide letter of allotment letter dated 11.4.2007, Annexure P.1. The petitioner was allotted plot measuring 450 square meters at the rate of ₹ 1800/- per square meter for the total price of ₹ 8,10,000/-. 10% of the total cost was paid alongwith the application and 15% was paid on 9.5.2007 i.e. within 30 days of the issuance of the regular letter of allotment. Rest of 75% was to be paid in five half yearly

installments starting from October 2007 to October 2009. The petitioner had submitted draft dated 2.7.2010 of ₹ 6 lacs to the respondents. However, the plot allotted to the petitioner was resumed vide order dated 6.7.2010, Annexure P.3 on account of non payment of installments. After passing of the order of resumption, the draft of ₹ 6 lacs was returned back to the petitioner vide letter dated 14.7.2010 alongwith another draft of ₹ 1,21,500/-. According to the petitioner, till date the plot has not been re-allotted by respondents to any third party. Aggrieved by the order dated 6.7.2010, Annexure P.3, the petitioner filed an appeal before the appellate authority headed by respondent No.2 on 30.9.2010, Annexure P.4. Vide letter dated 7.12.2010, the petitioner was informed that the hearing in the appeal was fixed for 15.12.2010. On the said date, learned counsel for the petitioner appeared but the committee insisted upon personal appearance of the petitioner and thus, the hearing was adjourned. In the meantime, the petitioner again submitted his written submissions before the appellate authority vide communication dated 14.3.2011, Annexure P.6. On 18.7.2011, the petitioner was again informed about the date of hearing as 26.7.2011. On the said date, the petitioner could not appear as he remained under the impression that he had already submitted his written submissions. Accordingly, the hearing of the appeal was again deferred. The petitioner continued visiting the office of respondent Nos. 3 and 4 seeking information regarding the fixing of any date by the appellate authority. More than one year had gone by but neither any order nor any proceedings were served upon the petitioner. Under the impression that the appeal had not been decided, the petitioner filed CWP No.1598 of 2013 in this Court with a prayer for a direction to respondent No.2 for fixing a date of hearing in the appeal. Vide order dated 25.1.2013, the writ petition was disposed of with a direction to respondent No.2 to consider and decide the appeal filed by the petitioner against the

resumption order in accordance with law, expeditiously preferably within a period of three months. Thereafter, the respondent Corporation filed CM No.6407 of 2013 in CWP No.1598 of 2013 with a prayer for recalling the order dated 25.1.2013 on the ground that the appeal filed by the petitioner already stood rejected vide proceedings dated 28.3.2012, Annexure P.8 which were sent to the petitioner vide letter dated 12.6.2012. The said application was allowed by this Court with ₹ 5000/- as costs to be paid by the petitioner. Hence the instant petition by the petitioner impugning the order/proceeding dated 28.03.2012 (Annexure P-8) passed by the appellate authority.

3. A written statement has been filed on behalf of respondent Nos. 3 and 4 wherein it has been inter alia stated that the petitioner had failed to deposit any of the five installments towards the price of the plot as per the terms and conditions of allotment/agreement. Show cause notices were issued to the petitioner on 17.3.2008, 31.10.2008, 12.2.2009, 24.6.2009 and 3.9.2009 but the petitioner did not respond to show cause. The petitioner had failed to take physical possession of the plot. The petitioner was called for personal hearing on 6.1.2010 and 14.5.2010 but he did not turn up on any of these dates. When the petitioner had filed appeal against the resumption order, he did not appear before the appellate authority inspite of being asked to personally appear. The petitioner failed to implement the approved project within a period of three years i.e. upto 10.4.2010 from the date of offer of possession. On these premises, prayer for dismissal of the petition has been made.

4. We have heard learned counsel for the parties.

5. Undisputedly, Plot No.241, measuring 450 square meters was allotted to the petitioner vide allotment letter dated 11.4.2007 alongwith offer of possession for setting up a project of manufacturing of home textiles, made-ups

and fabrics. As per the terms of allotment/agreement, the allottee was required to pay the balance 75% price of the plot in five six monthly installments due on 11.10.2007, 11.4.2008, 11.10.2008, 11.4.2009 and 11.10.2009. Further, the petitioner was required to implement the project within a period of three years from the date of offer of possession i.e. upto 10.4.2010. The petitioner failed to deposit any of the five installments towards the price of the plot. Consequently, show cause notices were issued to the petitioner on 17.3.2008, 31.10.2009, 24.6.2009 and 3.9.2009. The petitioner did not submit any reply to the notices. He was called for personal hearing on 6.1.2010 and 14.5.2010 but he did not appear. As a result, the plot was resumed on 6.7.2010 on account of violation of terms and conditions of allotment. Even when the petitioner filed appeal before the appellate authority, he did not appear inspite of opportunities being given. The appeal had already been dismissed when he filed a Civil Writ petition in this Court. The said writ petition was disposed of with a direction to respondent No.2 to decide his appeal. Thereafter, the respondent Corporation filed an application in the said writ petition stating that the appeal filed by the petitioner had already been dismissed and the order had been conveyed to him. Consequently, the said application filed by the respondent-corporation was allowed with ₹ 5000/- as costs to be paid by the petitioner. The appeal filed by the petitioner against the resumption order was rightly dismissed by the authority below with the following observations:-

“2. The appellant had earlier been called for appearing before the Appellate Committee in its meeting held on 15.12.2010, when his Advocate had appeared before the Committee and had requested that he may be allowed to represent the appellant. The Committee was of the view that the appellant should also be present to explain his case and decided to defer the case to the next hearing. Accordingly, the appellant was called before the Appellate

Committee on 26.07.2011 and, being absent on that date, was again called for hearing on 01.02.2012.

3. None appeared before the Committee. The Committee observed that the allottee had failed in depositing the installments of the price of the plot violating the terms and conditions of allotment and also did not put forward any explanation despite various opportunities granted by the Corporation through show cause notices and personal hearing. The appellant has also not appeared before the Appellate Committee to present his case despite various opportunities granted to him viz. 15.12.2010, 26.07.2011, 01.02.2012 & 28.03.2012. Therefore, finding that there was no merit in the appeal, the Committee was of the view that the Corporation had rightly resumed the plot in accordance with the terms and conditions governing the allotment of plot and decided to dismiss the same”.

Even before this court, learned counsel for the petitioner was unable to produce any material on record to substantiate his claim or to show that the order passed by the appellate authority was legally unsustainable.

6. In view of the above, we do not find any ground to interfere with the impugned orders passed by the respondent authorities. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

March 20, 2018
‘gs’

(Anupinder Singh Grewal)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No