

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.16594 of 2018.

Date of Decision: July 10, 2018

House Owners Welfare Association

.....Petitioner

versus

Haryana Shahri Vikas Pradhikaran and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.V.K.Jindal, Senior Advocate with
Mr.Gopal Soni, Advocate, for the petitioner.

-. -

Surya Kant, J. (Oral)

The petitioner is a Housing Owners Welfare Association formed by the residents of Sector-25, Panchkula. Its grievance is against the demand notice dated 24.05.2018 (P-16) and Calculation Sheet dated 11.05.2018 (P-15), whereby plot-owners of the above-mentioned Sector have been asked to pay additional allotment price at different rates depending upon the category to which the allottees belong. The members of the petitioner-Association have multiple grievances against the manner in which liability towards additional price has been calculated and fastened on them. All these issues have been raised by them vide self-explanatory representations dated Nil (P-20 Colly.).

[2] While the petitioner/its members were in the process of submitting their objection-cum-representations, HUDA has meanwhile notified 'One Time Settlement Scheme' whereunder if an allottee-in-default deposits the balance allotment price, such allottee is entitled to concession/discount to the extent of 40% or so. The members of the petitioner-Association also want to avail the benefit of the aforesaid Policy

but their grievance is that the said Scheme imposes a rider that the allottee will have to withdraw the pending Court cases and/or will not litigate the matter in the Court of law. Since the petitioners are aggrieved by the calculation made by HUDA authorities, they obviously seek protection of their right to approach the appropriate forum or the Court of law even after availing the concession/discount permissible under 'One Time Settlement Scheme'.

[3] This Court in CWP No.16489 of 2018 (Resident Welfare Association, Sector-8, Jind and others versus State of Haryana and others) decided on 09.07.2018, where also such an issue with reference to One Time Settlement Scheme came up for consideration, observed as follows:-

“... In our considered view, the condition that the allottees will not be entitled to benefit of concession unless they withdraw their pending cases or give an undertaking not to file a court case cannot sustain as their legal rights cannot be curtailed by way of an executive fiat. In this view of the matter, we permit the members of the petitioner-Associations to avail the benefit of 'OTS' Scheme, dated 07.05.2018 without prejudice to their right to pursue the reply-cum-legal notice dated 21.09.2017. It is directed that payments to be offered by the members of the petitioner-Associations shall be accepted and adjusted subject to the speaking order to be passed on the reply-cum-legal notice dated 21.09.2017, for which we grant three months' time to respondent-authorities.....”

[4] The instant writ petition is thus disposed of without expressing any views on merits, with the following directions:-

- (i) The members of the petitioner-Association may avail the benefit of 'One Time Settlement Scheme' which is operative w.e.f. 15.05.2018 for a period of two months and

avail the concession admissible thereunder;

- (ii) HUDA authorities will entertain their request for the grant of benefit under the 'One Time Settlement Scheme';
- (iii) There shall be a joint Committee comprising, Chief Administrator, HUDA; Estate Officer, HUDA, Panchkula and the Chief Controller of Finance, Haryana Urban Development Authority, Panchkula, who shall consider the representation-cum-objections submitted by the petitioner-Association against the revised demand notices dated 24.05.2018 read with Calculation Sheet dated 11.05.2018 and decide the same by way of reasoned order after hearing representative of the petitioner-Association.

Let the needful be done within a period of four months from the date of receiving a certified copy of this order.

Dasti.

[SURYA KANT]
JUDGE

July 10, 2018
mohinder

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No