

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.5654 of 2015

DATE OF DECISION:16.04.2018

SATPAL RATHI

... Petitioner(s)

Versus

STATE OF HARYANA AND ORS.

... Respondents

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

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Mr. Deepak Saherwal, Advocate
for respondents No.2 to 4.

ANUPINDER SINGH GREWAL, J.

The petitioner has sought quashing of order dated 19.10.2001 (Annexure P-4) whereby allotment of plot to the petitioner was cancelled, as well as the order dated 06.11.2008 (Annexure P-5) and order dated 05.09.2014 (Annexure P-6) whereby his appeal and revision respectively, thereagainst, were declined.

2. Learned counsel for the petitioner has contended that the petitioner had duly deposited 10% of the price of the plot at the time of allotment and had offered to pay 15% of the amount along with a request for condonation of delay, and therefore, the plot should have been restored to him. He also contends that in the case of another applicant, delay of 20 years in making the payment was condoned by the respondents as is evident from Annexure P-9. He has also

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referred to the Supreme Court Order passed in **SLP (Civil) Nos. 8198-8199 of 2013** titled as **Sunita Sharma Versus The Financial Commissioner & Sec. & Ors.** A copy of the order has been annexed as Annexure P-12.

3. Per contra, the learned counsel for respondents No.2 to 4 has contended that as the petitioner did not make the payment of 15% within a period of 30 days, his allotment of the plot was rightly cancelled by the authorities. He has also contended that the petitioner is not a bona fide purchaser and has bought the plot for speculative purposes. He further contended that the father of the petitioner had been allotted a plot and a booth through auction in the year 1997 and 2000 respectively. However, in both the cases, they had failed to make the rest of the payments timely.

4. Heard.

5. The petitioner had been allotted residential plot on 14.07.2000. In terms of Condition No.5 of the allotment letter, 15% of the amount was to be deposited within 30 days from the date of issuance of allotment letter, but the petitioner failed to do so. The petitioner was requested by respondent No.4 vide office memo No.9129 dated 26.09.2001 to intimate whether the amount of 15% had been deposited by him, but neither any reply was received from the petitioner nor the amount was deposited by him. The allotment of the plot to the petitioner was cancelled and resumed by the order dated 19.10.2001 and 10% of the amount was forfeited in terms of the policy.

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6. Furthermore, the petitioner had filed an appeal challenging the order of cancellation dated 19.10.2001 after a period of 07 years. There is no worthwhile explanation as to why the petitioner waited for over 07 years for preferring an appeal and did not deposit 15 % of the amount as required in terms of the Policy.

7. Learned counsel for the petitioner contended that the petitioner had been in custody, which prevented him from depositing the amount in time. He has referred to the order passed by the Revisional Authority, wherein reference has been made to the fact of the petitioner being confined in jail on 10.12.2003. The petitioner was required to deposit the amount of 15% by 03.08.2000 and he was taken into custody only on 10.12.2003 and, therefore, he had adequate time to make the deposit. Therefore, this explanation deserves to be rejected at the very threshold.

8. The petitioner has relied upon the judgment of Single Bench of this Court in the case of **Saravjit Singh Vs. State of Haryana, CWP No.16714 of 2008 decided on 30.05.2009**, wherein, the authorities had conditionally allowed the revision petition and the petitioner therein was granted one more opportunity to pay the outstanding amount. The orders imposing penal and compound interest, which were impugned therein, had been set aside. It is not discernible from the aforesaid judgment, as to why and how the revision petition had been allowed by the authorities. The petitioner cannot derive any benefit from this judgment as in the instant case, there is an unexplained delay of over 08 years before he made an

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offer to deposit the amount of 15 % which had to be done within 30 days of the letter of allotment.

9. In the case of **Sunita Sharma Versus The Financial Commissioner & Sec. & Ors. (supra)**, the petitioner therein had been allotted the plot on 15.12.1999 which was cancelled on 26.5.2000 on her failure to deposit 15% of the amount within 30 days. She had moved an application on 13.06.2000 to the Estate Officer for condonation of delay in depositing the amount. Therefore, it is apparent that the petitioner in the case of **Sunita Sharma Versus The Financial Commissioner & Sec. & Ors. (supra)**, had moved an application for condonation of delay within a month of cancellation of allotment, while in the instant case, the petitioner has chosen to remain silent and slept over his rights for over 08 years. He thus, cannot derive any benefit from the aforesaid judgment.

10. Consequently, we do not find any merit in the case of the petitioner, which stands dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

16.04.2018

SwarnjitS

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No