

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

**CWP No. 7706 of 2016
Date of decision: 07.02.2018**

**Babu Ram S/o Sh. Rulda Ram and Ujjagar Singh S/o Sh. Hari Ram
through General Power of Attorney Madan Singh S/o Sh. Naranjan
Singh r/o H.No. 1200, Phase (V), S.A.S. Nagar, (Mohali)**

.....Petitioners

Vs.

State of Punjab and others

.....Respondents

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

Present: Mr. Harmail Singh, Advocate for the petitioner.
Ms. Sunint Kaur, AAG, Punjab.
Mr.Nitin Kaushal, Advocate for respondent Nos. 2 and 3.

Ajay Kumar Mittal,J.

1. Prayer in this petition filed under Articles 226/227 of the Constitution of India is for quashing order dated 22.2.2013, Annexure P.9 cancelling the letter of intent dated 7.5.2010 by respondent No.3, order dated 5.6.2013, Annexure P.11 dismissing the appeal by respondent No.2 and order dated 4.5.2015, Annexure P.13, dismissing the revision petition by respondent No.1. Direction has been sought to the respondents to restore the

letter of intent for allotment of plot No.873-C, Sector 77C, SAS Nagar, Mohali.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner being bonafide oustee applied for allotment of a 100 square yard plot in the Urban Estate, SAS Nagar, Mohali as per the oustee policy of PUDA/GMADA vide application dated 31.1.2002 alongwith requisite earnest money. The original applicants had appointed the petitioner as their legal general power of attorney vide registered deed dated 8.5.2002. The petitioner had placed on record an attested copy of GPA in the office of respondent No.3 vide letter dated 15.1.2008 and had requested respondent No.3 to send all the future correspondence to him on the changed address. Respondent No.3 also sent communication to the petitioner on the changed address vide letter dated 7.3.2008. The petitioner being the bonafide oustee was allocated residential plot No.873-C, Sector 77, SAS Nagar Mohali measuring 100 square yards in the 76-80 scheme floated by GMADA. Draw of lots was held on 6.11.2009 and the name of the petitioner had appeared in the list of successful applicants. Letter of intent dated 7.5.2010 was issued to the petitioner. The petitioner had already paid 10% of the tentative price of the plot before the issuance of the letter of intent. The petitioner was required to pay ₹ 65000/- to complete 25% price of the allocated plot within 60 days of the issuance of the letter of intent but the said letter was not sent by respondent No.3 to the petitioner on the changed address whereas the said address was already available with respondent No.3 at the time of issuance of the letter of intent. In the month of July 2011, the petitioner came to know that the letters of intent had been issued to all the successful oustee applicants. He also

enquired from the original applicants but they did not receive any letter even on the old address. He immediately approached respondent No.3 and applied for duplicate letter of intent. According to the petitioner, the police did not register the DDR on the basis of his factual statement that the letter of intent appeared to have been lost during transit as the same had neither been received by the original applicants nor by the petitioner. The petitioner had no other option but to give in when the police mentioned the loss of letter of intent in the DDR in a manner which gave an impression as if the letter of intent had been received by the petitioner and thereafter had been lost. Thereafter, attested copy of the letter dated 7.5.2010 was issued to the petitioner on 3.8.2011. The petitioner deposited ₹ 65000/- vide receipt dated 3.8.2011. The petitioner was shocked to receive a notice dated 4.1.2013 after one and a half years of the completion of 25% price of allocated plot. He was asked to explain the position why he had not deposited 25% price and was asked to appear before respondent No.3. No hearing was given to the petitioner. The petitioner was only verbally informed by respondent No.3 that he had no power to condone the delay and accept the amount beyond 30 days. Ultimately, on 22.2.2013, respondent no.3 passed the impugned order cancelling the letter of intent issued in favour of the petitioner and further forfeiting 10% of the earnest money in favour of the GMADA. Hence the instant petition by the petitioner.

3. A written statement has been filed on behalf of respondent Nos. 2 and 3 wherein it has been inter alia stated that as per the policy decision issued by PUDA dated 20.8.2002, which is also applicable in GMADA, an allottee can make the 15% initial amount after the expiry of 30 days from the date of issue of letter of intent if the circumstances are beyond his control but

the petitioner herein failed to deposit the initial 15% amount to complete 25% amount of plot even within the maximum period of six months. The appeal and the revision filed by the petitioner were also dismissed by the authorities on the ground of delay in depositing the amount. On these premises, prayer for dismissal of the petition has been made.

4. We have heard learned counsel for the parties.

5. Admittedly, Plot No.873-C, Sector 77, SAS Nagar, Mohali measuring 100 square yards was allocated to Babu Ram and Ujjagar Singh, the original applicants from oustee quota. The said applicants had appointed Shri Madan Singh as their General power of attorney, copy of which had been deposited by the petitioner at Estate office on 15.1.2008. He requested that all future correspondence be sent at his address. Letter of intent dated 7.5.2010 was accordingly issued. Madan Singh submitted an affidavit that he had misplaced the letter of intent and duplicate copy of letter of intent was issued by the office. The plea of the petitioner that he had not received letter of intent was not believable as he himself submitted affidavit on 26.7.2011 in the Estate office that he had misplaced original letter of intent and therefore duplicate copy be issued. Further, he had registered one DDR at police station, Mataur, Mohali on 26.7.2011 that he had misplaced letter of intent of the plot in question. It was thus concluded that he had already received the original letter of intent. The petitioner had admittedly deposited due 25% amount after a delay of one year and a month. No reasonable explanation had been tendered by the petitioner in depositing 15 per cent amount belatedly so that the delay could be condoned in the facts and circumstances. Thus, the appeal and the revision filed by the petitioner against the impugned order were also dismissed on the ground of delay. Learned counsel for the

petitioner was unable to produce any material on record to point out any error in the impugned action taken by the respondents.

6. With regard to the judgments relied upon by the learned counsel for the petitioner in *Jagmohan Singh vs. State of Punjab and others*, (2008) 7 SCC 38, *Office of the Chief Post Master General and others vs. Living Media India Limited and another*, Civil Appeal No.2474-2475 of 2012 decided on 24.2.2012 and *GMADA vs. State of Punjab and others*, CWP No.1618 of 2016, decided on 27.1.2016, suffice it to notice that they are based on individual fact situation involved therein and thus, the petitioner cannot derive any advantage from the said decisions.

7. In view of the above, we do not find any merit in the petition and the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

February 07, 2018
'gs'

(Anupinder Singh Grewal)
Judge

Whether speaking/reasoned	Yes
Whether reportable	Yes