

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

**LPA No. 643 of 2018 (O&M) in
CWP No.6432 of 2018
Date of Decision: 03.05.2018**

Jasvir Chaudhary

..... Appellant

Versus

Chandigarh Housing Board and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE B. S. WALIA**

Present: Mr. Ankur Malik, Advocate
for the appellant.

RAJESH BINDAL J.

The order passed by the learned Single Judge dismissing the writ petition has been challenged by filing the present intra-court appeal.

In the case in hand, the appellant was an applicant for allotment of two bedroom dwelling unit under Self Financing Scheme 2016 on lease hold basis. Her husband had also applied independently. As per the terms laid down in the brochure, independent applications could be filed by husband and wife, however, in case of allotment only one could retain the allotment and other was to be surrendered within 30 days from the date of draw of lots.

Draw of lots was held on two different dates i.e. 10.06.2016 and 25.07.2016. Immediately after the second draw of lots, as the husband of the appellant was successful, an application was filed for surrender of allotment in favour of the appellant on 10.08.2016. As per condition No.3 I (iv) as contained in the brochure, in case application for surrender

of dwelling unit is filed within 30 days from the date of draw of lots, initial deposit was to be refunded without any forfeiture. Despite the fact that surrender of the allotment made in favour of the appellant was made within 30 days from the date of draw of lots, the respondent deducted 25% of the amount i.e. ₹ 1,72,500/-. The appellant filed application under Section 22C of the Legal Services Authorities Act, 1987 before the Permanent Lok Adalat (Public Utility Services) U.T., Chandigarh. The same was allowed vide order dated 26.09.2017, which reads as under:-

“She is ordered to be refunded by the respondent a sum of Rs.1,72,500/- along with interest @9% per annum w.e.f. 10.08.2016 till the date of realization. Also, she is awarded a sum of Rs.10,000/- by way of compensation for the mental agony and harassment, she has suffered. Besides it, she would be paid Rs.5,000/- as litigation charges for prosecuting these proceedings before this Court.”

Aggrieved against the aforesaid award, the Chandigarh Housing Board (for short 'the Board') preferred Civil Writ Petition No.6432 of 2018 and the same was dismissed in *limine* without notice to the appellant on 15.03.2018. The learned Single Judge also held that there was no reason to forfeit any part of the amount initially deposited. It was further held that the appellant shall be entitled to refund of the initial deposit without any deduction along with the amount of compensation and litigation expenses awarded by the Permanent Lok Adalat. However, a direction was given that the amount shall be refunded without any interest.

In our opinion, there is error in the order passed by the learned Single Judge to that effect as notice in the writ petition had not

been issued. In the absence thereof, any relief granted to the appellant by the Permanent Lok Adalat could not be set aside. Hence, we modify the order passed by the learned Single Judge and upheld the order passed by the Permanent Lok Adalat. The appeal is disposed of accordingly.

In case the Board has any grievance against the order passed, it shall be at liberty to file application.

**(RAJESH BINDAL)
JUDGE**

**(B. S. WALIA)
JUDGE**

03.05.2018
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No