

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

CWP No.3238 of 2017
DATE OF DECISION:13.02.2019

Smt. Ram Kala

...Petitioner

Vs.

State of Haryana & others

...Respondents

**CORAM:- HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE LALIT BATRA**

Present: Mr. Sandeep Verma, Advocate
for the petitioner.

Mr. Deepak Balyan, Advocate
for the respondents.

MAHESH GROVER, J. (Oral)

This petition has been filed with a prayer that impugned order dated 29.06.2016(Annexure P-10) be quashed which resulted in rejection of the petitioner's prayer for issuance of Occupancy Certificate of Plot No.841, Sector-6, Part-I, Dharuhera on the ground that an outstanding amount of Rs.10,71,119.00 is due against the property. A prayer has also been made to quash order dated 06.01.2017(Annexure P-14) where the plea of the petitioner against the demand has been rejected.

Few facts necessary for the purposes of deciding this issue are that the petitioner purchased the plot in question on 24.07.2015 from an

erstwhile allottee which was permitted by the respondents on the very same day when the sale deed was executed on 24.07.2015. At that point of time, no question was raised regarding any outstanding amount due against the property or the original allottee and once the proper sale deed was executed, the petitioner commenced construction work of the house completing it within a year and sought an occupancy certificate which was declined on the ground noticed above. The petitioner naturally agitated against the demand which was not accepted by the respondents, to reiterate the demand of more than Rs.10 lacs forcing him to approach this Court.

After the respondents were put on notice they filed the reply. Initially, a short reply was filed but then a detailed reply has been filed alongwith the statement of accounts which indicates that on 01.01.2015 an amount of Rs.8,63,550/- was due against the plot. If that were so, then it is not understandable as to why the petitioner was not apprised of the outstanding amount at the time of sale deed in July 2015. Rather the respondents transferred the plot without any demur. Then a question arises as to how this demand has been raised against the petitioner now by the Estate Officer who was summoned to Court and has merely shrugged of the demand by stating that it is human error.

Such an explanation if accepted is fraught with inherent dangers as it would open the gates for raising such demands against all and sundry, unsettling the buyers of the plots.

The reason for permitting transfer without pointing out the demand is not far to seek as it is evident that some officials of the HUDA

would possibly have been interested in ensuring the sale to the benefit of the original allottees and possibly shared the booty in the process. This is however not for us to comment upon as it has to be established by a proper inquiry. We however, have no difficulty in holding that once the sale deed has been executed and the transfer permitted the petitioner cannot be penalized for the fault of the HUDA official or for the default in payment by the original allottee. These are aspects that should have been taken care of by the HUDA authorities at the time when transfer was permitted.

The respondents would of course point out to the affidavit furnished by the petitioner where she has bound herself to make the payment of any dues that may be discovered lateron but if we see it we cannot hold the petitioner responsible for making any payment in view of the reallotment letter issued by the HUDA on 24.07.2015(Annexure P-6) where they gave out specifically that there was no outstanding amount against the plot. For the purposes of reference the relevant portion of the reallotment letter is extracted herebelow:-

“You shall have to pay the balance installment as per the schedule given below;

S. No.	Payment Category	Installment Number	Enhancement Number	Due Dt.	Due Amount	Possession/ Enhancement Interest	Amount
1		0			0.00	0.00	0.00

In view of the above, the respondents are not justified in raising any demand against the petitioner. We would however, while quashing the demand against the petitioner dispose of the writ petition by holding that Chief Administrator HUDA would hold an inquiry into the

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lapse and recover the amount either from the original allottees or from the Officer responsible for the lapse. Writ petition is allowed with a cost of Rs.20,000/- which will be compensatory to the petitioner.

(MAHESH GROVER)
JUDGE

(LALIT BATRA)
JUDGE

13.02.2019
rimpal

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