

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

CWP No.8310 of 2018

Date of decision: 27.08.2019

Kanwarjit Kaur

..Petitioner

Versus

**Haryana Urban Development Authority
and another**

..Respondents

**CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present: Mr. Aman Sharma, Advocate
for the petitioner.

Mr. Deepak Balyan, Advocate
for the respondents-HUDA.

Daya Chaudhary, J.

The grievance of the petitioner in the present writ petition is that her husband applied for a plot measuring 14 marla on 08.02.2007 and he was declared successful in the draw of lots. Plot No.36 measuring 300 square meters in Sector 31, Urban Estate, Panchkula was allotted to the husband of the petitioner on freehold basis for a tentative price of ₹22,20,000/-. The husband of the petitioner expired on 28.06.2007 and the petitioner vide representation dated 14.11.2007 informed the respondents about the death of her husband. She also mentioned that she was the legal heir of Late Sh. Kulwant Singh. The petitioner even enclosed a copy of receipt of 15% amount i.e. ₹3,33,000/- towards the total cost of the plot along with the representation. Respondent No.2 issued a show cause notice to the petitioner stating therein that as per terms and conditions of allotment letter, a sum of ₹979 was required to be remitted upto 01.01.2009. Pursuant thereto, said amount was deposited by the petitioner. Vide letter dated

26.08.2010, the offer of possession was given by respondent No.2. Thereafter, the petitioner deposited an amount of ₹23,98,318/- against the tentative price of ₹22,20,000/-. The petitioner requested the respondent-Department to transfer the allotment of plot in her favour. Respondent No.2 directed the petitioner to obtain a decree from the Competent Court of Law being the legal heir of Kulwant Singh. Accordingly, the petitioner filed a suit for declaration before the Competent Court at Panchkula, which was decreed in her favour vide Award dated 24.05.2014. She deposited the due amount with the respondent-Department along with copy of Award dated 24.05.2014. Respondent No.2 vide letter dated 02.03.2015 asked respondent No.1 for further guidance regarding transfer of plot in the name of the petitioner who vide letter dated 30.07.2015 stated that legal heir was not entitled for allotment of plot but the petitioner was never informed. Thereafter she received information under RTI vide letter dated 08.12.2017 that the HUDA authority vide letter dated 07.01.2016 had decided that legal heir was not entitled to the plot and her claim for transfer of plot was rejected.

Now the petitioner has filed the present writ petition for quashing of letter dated 07.01.2016 issued by respondent No.2, whereby, the claim of the petitioner for transfer of plot has been rejected.

Learned counsel for the petitioner submits that the petitioner has not only deposited the total amount due towards the plot in question but all the formalities were also completed still the plot was not transferred in her name. Learned counsel also submits that the case of the petitioner is squarely covered by the ratio of judgment rendered by the Division Bench

of this Court in ***Vandana Arora vs. Chief Administrator, HUDA and another, 2013 (3) RCR (Civil) 289.***

Learned counsel for the respondents has opposed the submissions made by learned counsel for the petitioner on the ground that the present writ petition is not maintainable as there is no contract between the parties and the allotment cannot be claimed as a matter of right. Learned counsel further submits that draw of plots was held on 25.07.2007 and husband of the petitioner expired on 08.06.2007 i.e. before the date of draw of lots. Learned counsel also submits that there is no policy for allotment of plot in the name of a dead person and therefore, the plot was not transferred. However, learned counsel for the respondents has not disputed the fact that case of the petitioner is squarely covered by the ratio of judgment in ***Vandana Arora's case (supra).***

Heard arguments of learned counsel for the parties and we have also perused the documents available on the file.

Admittedly, the issue before the Division Bench in ***Vandana Arora's case (supra)*** was that the petitioner in that case filed a writ petition challenging the action of the respondents in not transferring the plot allotted to her husband (since deceased). During course of hearing, HUDA relied upon the policy dated 07.09.2011, which was formulated by them for transfer of ownership of the residential plot in case of death of an allottee. It was found that it was a draft policy, which was not notified. However, the draft policy was approved and notified by the HUDA subject to requirement of further modification. A direction was issued to consider the claim of the petitioner according to the policy within a period of three months from the

date of receipt of application. Thereafter, the transfer was made on the basis of that policy. The writ petition was disposed of stating that the necessary relief has already been granted to the petitioner.

The case of the petitioner is also of similar nature as not only outstanding amount has been accepted by the respondent-authority but all the formalities have also been completed. The petitioner also filed suit for declaration, which was decreed in her favour vide Award dated 24.05.2014. On perusal of documents available on the file, it is apparent that the petitioner has also deposited the extension fee as well as other dues as demanded from time to time but still the transfer was not made.

In view of the facts as mentioned above, the present writ petition is allowed and the respondents are directed to transfer the plot No.36 measuring 300 square meters in Sector 31, Urban Estate, Panchkula in the name of the petitioner within a period of two months from the date of receipt of certified copy of this order subject to completing all formalities including the total price of the plot prevalent at the time of allotment.

(DAYA CHAUDHARY)
JUDGE

27.08.2019
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes