

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

**CM No. 15814-CWP of 2019,
CM No. 15815-CWP of 2019,
CM No. 15816-CWP of 2019 in/and
RA-CW No. 424 of 2019 in
CWP No. 21586 of 2011**

Date of decision : 05.11.2019

Haryana Urban Development Authority

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Present : Applicant-respondent No.2 Smt. Prem Lata in person.

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DAYA CHAUDHARY, J.

CM No.15814-CWP of 2019

Application is allowed as prayed for.

CM No.15815-CWP of 2019

This application is for placing on record Annexures A/1 to A/4.

Application is allowed and Annexures A/1 to A/4 annexed with the application are taken on record.

**CM No. 15816-CWP of 2019 and
RA-CW No. 424 of 2019**

Petitioner Haryana Urban Development Authority (for short -
“HUDA”) filed CWP No.21586 of 2011 before this Court challenging order
01.06.2011 (Annexure P-33 in the main writ petition), which were passed in

favour of the applicant/respondent No.2. The said writ petition was allowed and said orders were set aside vide order dated 12.08.2013. Said judgment was also challenged before Hon'ble the Apex Court by way of filing SLP, which was also dismissed.

Smt. Prem Lata, LR of the original allottee namely Amar Nath, filed the present review application to review judgment dated 12.08.2013 passed by this Court in CWP No.21586 of 2011 but with a delay of 2223 days.

Review applicant while appearing in person submits that revision petition was filed before Secretary to Government of Haryana, Town and Country Planning Department against order dated 18.09.1991 (Annexure P-5 in the main writ petition) and vide order dated 25.11.1991 (Annexure P-7 passed in the main writ petition), the time was extended to deposit the amount of 15% of the auction money upto 02.01.1992 instead of 02.01.1991. A specific direction was also issued to prepare the re-schedule payment plan but sufficient time was not given as the applicant was having less than 2 months to pay the instalment amount. The conduct of the HUDA authority was unjustified as no fresh payment schedule was prepared and amount could not be deposited. It was the fault of the HUDA authority in delaying the payment otherwise it could have been deposited. Applicant also submits that out of total amount of Rs.1,71,44,000/-, an amount of Rs.1,24,74,746/- has been refunded and remaining amount has not been returned. Applicant is also entitled for interest. At the end, the applicant submits that the amount which has not been refunded be refunded to her

along with interest.

Heard the applicant. We have also perused documents available on the file including the judgment passed by this Court.

Admittedly, the applicant has lost her battle upto Hon'ble the Apex Court and judgment dated 12.08.2013 passed by this Court has attained finality.

Undisputedly, there is delay of 2223 days in filing the review application and the only reason given is that the matter was pending before Hon'ble the Apex Court and, thereafter, documents were collected and advice of the counsel was taken. Neither any detail has been given nor any other reason has been mentioned. It is a case of unexplained delay without giving any sufficient reason. A detailed judgment has been passed by the Division Bench of this Court, which was challenged before Hon'ble the Apex Court and the judgment of this Court has been upheld. No detail has been mentioned in the review application as to what is the ground of review. The mode of payment of the amount for the property in dispute was part of terms and conditions of the allotment and even time was extended but still amount was not deposited. The review application has been filed after a delay of more than 6 years and 1 month. No convincing reason has been raised in the averments as well as in the arguments. The applicant cannot take benefit of her conduct of laches while claiming discretionary relief. For reviewing order, a number of factors are to be taken into consideration.

In case there is negligence or omission on the part of the

applicant in contacting her counsel, then discretion cannot be exercised in her favour. The doctrine of laches in courts of equity is not an arbitrary or a technical but it is unjust to give benefit because of conduct of the party. The circumstances and events to explain the intervening period before filing of the review application are necessary to be taken into consideration. No efforts have been made to explain the in between period spent in getting advice or contacting the concerned counsel. For condonation of delay it is necessary to be seen as to whether some new and important facts have come to the knowledge of the parties, which were not within her knowledge or could not be produced at the time of hearing of the case or any mistake or error is there on the face of the record. In case any sufficient reason is there to explain the delay spent in moving application for review of the order, then discretion power can be exercised by the Court but on the ground of some sufficient reason.

Review is not rehearing of the original case and power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. The scope of power of review is very limited and it is to be confined strictly only to the errors which are apparent on the face of record. In case the arguments raised in the review application have also been dealt with in the judgment passed, the party is at liberty to challenge the impugned judgment.

In the present case, the judgment passed by the Division Bench has already been challenged before the Apex Court and SLP filed by the applicant has also been dismissed and order passed by this Court has been

upheld. It is not a case of discovery of new and important facts which were not raised at the time of arguing the case before this Court or certain facts which were not in the knowledge of the applicant at the time of hearing of the case before this Court. The power of review can be exercised in case the Court is satisfied that there is an error apparent on the face of the order, which has resulted into miscarriage of justice or some error is there which is said to be material in nature.

No ground is made out to review judgment dated 12.08.2013. Accordingly, the present review application is dismissed not only on the ground of delay but on merits as well.

**(DAYA CHAUDHARY)
JUDGE**

Dated : 05.11.2019
sunil yadav

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No