

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

**CM No.17812-CWP of 2019 in
RA-CW No. 472 of 2019 in
CWP No. 18025 of 2015**

Date of decision : 06.12.2019

Bhupesh and others

.....Petitioners

Versus

State of Haryana and others

....Respondents

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

Present : Mr. Jagdish Manchanda, Advocate
for the applicant-petitioners.

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DAYA CHAUDHARY, J.

CM No.17812-CWP of 2019

This application is for condonation of 3 days delay in filing the review application. The application is supported by an affidavit.

For the reasons recorded in the application, the same is allowed and the delay in filing the review application is condoned.

RA-CW No. 472 of 2019

Present review application has been filed under Order 47 Rule 1 read with Section 151 CPC for review/modification of judgment dated 03.10.2019 passed in CWP No.18025 of 2015, on various grounds.

Learned counsel for the review applicant-petitioners submits that the petitioners completed the construction within a period of two years from the date of allotment but all amenities were not there upto 18.02.2012. Learned counsel further submits that in absence of the amenities, the penal interest cannot be charged from the applicant-petitioners. Learned counsel has also brought to the notice of this Court clarification dated 29.09.2005 issued by the Chief Administrator to the effect that in case the allottee does not approach the Courts or the Chief Administrator for waiving of interest in absence of all basic amenities, but has already deposited all the instalments by the due date, then penal interest cannot be imposed. Learned counsel also submits that all instalments were paid well in time and there was no delay on the part of the applicant-petitioners. This fact has not been considered while passing the judgment.

Heard arguments of learned counsel for the applicant-petitioners. We have also perused the judgment as well as the averments made in the review application.

Neither any averment has been made in the main petition nor in the review application that the applicant-petitioners have deposited all the instalments within the scheduled period.

Review does not mean rehearing of the original case by raising additional grounds. A limited scope is there for review of order/judgment. It is not a case of discovery of new and important facts which were not raised at the time of hearing of the case. Moreover, 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.

Even during course of arguments in the review application, on putting a query to learned counsel for the applicant-petitioners, nothing has been pointed out as to when the instalments were paid. Even no document has been shown from the record of the case that the instalments were paid well within the scheduled time. It has specifically been mentioned in orders dated 28.03.2007 and 23.05.2013, passed by the Chief Administrator and the Principal Secretary to Government of Haryana, respectively, that the allottees did not deposit the balance amount of the plots as per the prescribed schedule. The mentioning of this fact itself shows that the review application has been filed on wrong averments.

Accordingly, keeping in view the facts as mentioned above, no ground is made out to review judgment dated 03.10.2019 and the present review application is dismissed.

**(DAYA CHAUDHARY)
JUDGE**

Dated : 06.12.2019
sunil yadav

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No