

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

Date of Decision:- 15.10.2020

CWP No.14772 of 2020(O&M)

Bhartendu Sood.

.....Petitioner.

Versus

Chandigarh Housing Board & Anr.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present:- Mr. Bhartendu Sood, Petitioner in person.

Mr. Ashish Rawal, Advocate for
Respondent No.1-Chandigarh Housing Board.

Mr. Aditya Jain, Advocate for
respondent No.2-UT, Chandigarh.

JASWANT SINGH, J.

*[The aforesaid presence is being recorded through video conferencing since
the proceedings are being conducted in virtual court]*

Petitioner- Bhartendu Sood has filed the present petition seeking writ in the nature of Mandamus for directing Chairman Chandigarh Housing Board (respondent no 1) to transfer the ownership of his Flat no. 231, Sector 45-A, Chandigarh under its GPA transfer policy at par with the cases which were transferred by respondent no.1 before 19.12.2017.

Petitioner has made the following submissions before this Court:

1. On account of deficient services of respondent-
Housing Board, as held by the State Consumer Disputes Redressal

Commission in Appeal No. A/100/2019 in its decision dated 27.11.2019 (P-4), respondent no. 1 is at fault and therefore, subsequent policy dated 19.12.2017 (**P-2**) cannot affect the rights of petitioner as he had applied for transfer of ownership on 02.06.2016 (**P-1**). Consequently, petitioner is entitled to acquire ownership under the previously existing policy whereby ownership could be transferred on the basis of GPA/Will etc.

2. The respondent-Board has very conveniently missed the important aspects of Judgment dated 11.10.2011 titled as “Suraj Lamp and Industries Private Limited Vs State of Haryana and anr” passed by Hon’ble Supreme Court while issuing the Circular/ policy dated 19.12.2017 (**P-2**) banning the registration of properties on the basis of GPA/Will etc. As per the judgment, the authority is under obligation to not disturb the ownership rights of those persons whose SA/GPA/Will transactions have been accepted by authorities.

3. Since the judgment passed by Hon’ble Supreme Court is dated 11.10.2011 whereas the Chandigarh Administration issued circular on dated 19.12.2017, therefore any transfers affected after the said date are also required to be set aside. However, as per the information supplied to petitioner under RTI Act, 2005, the board has not cancelled any transfer made between 11.10.2011 to 19.12.2017.

4. Petitioner claims parity with cases whereby respondent no. 1 has transferred ownership rights on the basis of Will/ GPA/SA after 11.10.2011 and before 19.12.2017, as the petitioner had moved his application for transfer on 02.06.2016.

5. The petitioner had not deposited an amount of Rs. 1,99,944/- as demanded by respondent no 1 in pursuance to his

application dated 02.06.2016 because no details were given to him and previously also,unreasonable amount was sought to be charged which were never due for issuance of 'NO DUES' certificate. Therefore, the petitioner was well within his rights for breakup of the amount asked by respondent-Board which was not supplied.

Hence prayer has been made for allowing the present writ petition.

We have heard the petitioner in detail and have also perused the record, including the written submissions which were taken on record. However, we are of the view that present petition is liable to be dismissed.

It is an admitted position that the petitioner had purchased the flat in question on the basis of GPA/Will somewhere in the year 1995 and had moved an application dated 02.06.2016 for transfer of ownership of the flat with respondent-Board under the then existing policy. However, the respondent-Board had sought an amount of Rs. 1,99,944/- from petitioner, for which the petitioner wanted to know the exact details of the calculation made by Board. During the said period of correspondence between petitioner and respondent-Board, the Chandigarh Administration issued circular dated 19.12.2017 (P-2) directing the Board not to transfer ownership where the applicants claim on the basis of Will/ GPA/SA etc. The said circular was implemented by respondent no 1 in its letter and spirit and thereafter no transfer was made. It is evident that the circular dated 19.12.2017 (P-2) was issued by Chandigarh Administration in compliance of the directions given by Hon'ble Supreme Court in Suraj Lamp's case supra. It is further undisputed that no flat has been transferred where claim has been raised on the basis of GPA/Will etc after issuance of Circular dated 19.12.2017 (P-2).

Although, the petitioner states that he did not deposit the amount on account of previous unsavory experience with the Board, who had asked for unreasonable amount from him for issuance of 'No Dues' certificate, however, this cannot turn the clock back and entitle him to revive his application dated

02.06.2016 (P-1). The petitioner was applying under a policy which permitted him to seek transfer of ownership acquired by him on the basis of GPA/Will etc. However, the said policy was withdrawn by the Chandigarh Administration and new circular dated 19.12.2017 (P-2) was issued. Since the transaction under the said policy was not complete, no right was fructified in favor of petitioner.

Further, the circular in question was not issued by the Board, but was issued by Chandigarh Administration. The Board, being an entity of the Administration, is bound to implement the Circular. In any case, the petitioner had agitated his rights before the Consumer Forum, who has already awarded him appropriate relief. Consequently, the Board had rightly not considered the case of petitioner for transfer of ownership after circular dated 19.12.2017.

As far as the argument regarding parity with those applicants who have got themselves recorded as owners during the period after passing of the Judgment by Hon'ble Supreme Court and issuance of circular dated 19.12.2017, we are afraid the said prayer is also misconceived. As observed by us earlier, the Board is an entity of the Administration who takes policy decisions. Since the Administration took decision on 19.12.2017, the Board was bound to implement it. Prior to that, there is no such decision and therefore, there was no impediment with the Board not to transfer ownerships on basis of GPA/SA/Will. Further, the petitioner is claiming relief under the same very policy which was in existence in the year 2016 and therefore, he cannot be permitted to take U-turn and challenge the actions under the said policy. Although the Chandigarh Administration was bound to implement the judgment immediately, however, late compliance of the judgment cannot be made as a ground for permitting the application of petitioner. Further, those dwelling owners who took the benefit of the policy existing prior to 19.12.2017 cannot be put at dis-advantage by turning the clock back.

No other meaningful argument was either raised or submitted for our consideration.

In view of the above, finding no merit, present writ petition is hereby
ordered to be **dismissed**.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

October 15th, 2020
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>