

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

CWP No.22456 of 2015
Date of Decision: 19.02.2020

Manohar Lal SharmaPetitioner

Versus

State of Haryana and othersRespondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Sunil K. Nehra, Advocate, for the petitioner.

Mr. P.P.Chahar, Deputy Advocate General, Haryana.

Mr. Lokesh Sinhal, Advocate, for respondent Nos.3 and 4.

KARAMJIT SINGH, J.

The petitioner has filed this petition for issuance of a writ of certiorari seeking quashing of impugned communication dated 09.07.2015 (Annexure P-47) with further prayer for issuance of a writ of mandamus directing the respondents to sanction the building plan of his plot.

The case of the petitioner is that he was allotted Plot No.477-P, Sector 4, Panchkula, out of Discretionary Quota, vide allotment letter dated 13.04.1977 (Annexure P-1). The possession certificate (Annexure P-2) of the said plot was given to him by respondent No.4, on 30.12.1983. Due to unavoidable circumstances, the petitioner failed to build the house in the said plot within the stipulated period. The petitioner paid all the dues including extension fees upto December 1997. He submitted building plan on 17.11.1997 along with the requisite fees. On 27.11.1997, he was informed by

respondent No.4 that the building plan could not be sanctioned till the further orders of the Hon'ble High Court. The concerned letter is Annexure P-5. Thereafter, the petitioner repeatedly sent letters to the respondents in that regard. Respondent No.4 again informed him that the building plan could not be sanctioned, as the matter regarding allotment of plots out of Discretionary Quota was sub-judice in the High Court. The concerned letter dated 26.09.2000, in this regard, is Annexure P-9. Subsequently, respondent No.4 asked the petitioner to submit fresh building plan along with requisite fees. He was also asked to deposit the outstanding extension fees of Rs.52,390/-, vide letter dated 24.10.2000 (Annexure P-11). Thereafter, number of letters were written by the petitioner that he was not liable to pay any extension fees. Thereafter, correspondence remained pending between the petitioner and respondent No.4. In the meantime, the petitioner also approached the District Consumer Disputes Redressal Forum, Panchkula, which passed order in his favour. On challenge, the said order was set aside by the State Consumer Disputes Redressal Commission, Haryana, vide order dated 30.11.2011. Even thereafter, the petitioner sent letters to the respondents to sanction his building plan. On 09.07.2015, the petitioner received impugned demand notice (Annexure P-47), whereby, demand of Rs.73,57,000/- was raised on account of extension fees. The said demand is totally illegal. Hence, this writ petition was filed.

On notice of motion, the writ petition was contested by the State. Written statement was filed on behalf of respondent Nos.3 and 4. The fact regarding allotment of plot in question to the petitioner was admitted. It was

also admitted that its possession was handed over to the petitioner on 30.12.1983. The building plan of the said plot was not sanctioned, as the matter was sub-judice in the High Court and there was a stay order, which was vacated on 05.02.1998. The petitioner was liable to pay extension fees from 01.11.1998, as he failed to raise construction during the stipulated period of two years. It was also pleaded that the demand notice (Annexure P-47) was valid. It was further pleaded that writ petition deserves to be dismissed.

A short reply on behalf of respondent No.2 was also filed, in which, it was prayed that writ petition be dismissed qua the answering respondent.

We have heard learned counsel for the parties and also gone through the record of the case file.

The undisputed facts are that Plot No.477-P, Sector 4, Panchkula, was allotted to the petitioner, out of Discretionary Quota, by the State Government, vide allotment letter dated 13.04.1977. The possession certificate with regard to said plot was issued to the petitioner, on 30.12.1983. The allotment of the aforesaid plot was cancelled on 10.09.1987 and it was restored on 20.11.1989. No construction was raised in the said plot by the petitioner till the filing of the writ petition. The dispute is regarding deposit of the outstanding extension fees of the said plot by the petitioner.

As per the respondents, amount of Rs.73,57,000/- was standing due against the petitioner on account of extension fees as on 31.12.2015. To this effect, letter (Annexure P-47) was issued by the respondents to the petitioner. The said letter is under challenged in this writ petition. It has been

admitted by the respondents that the extension fees upto 1997 worth Rs.19,430/- was deposited by the petitioner, within time. As per letter (Annexure R-4/20) dated 25.02.2002, sent by the Chief Administrator, Haryana Urban Development Authority (HUDA), Panchkula, it is clear that the allottees of Discretionary Quota plots, whose plots were cancelled in the light of judgment of this Court dated 27.03.1997, filed S.L.Ps in the Hon'ble Apex Court of India and the same were finally decided on 28.09.2001. So, it is clear that the allotment of plots on the basis of Discretionary Quota including plot of the petitioner remained under litigation from 1996 to 28.09.2001. In its written statement, respondent Nos.3 and 4 admitted that the instructions were issued by the Chief Administrator, HUDA, Panchkula, vide letter dated 25.02.2002, to the effect that the litigation period may be treated as zero period and penal interest on delayed payment of installments, enhanced compensation and extension fees from the date of cancellation of plot to the date of restoration of plots may not be charged.

In the impugned letter (Annexure P-47), the details of the dues of extension fees were not given. It is also not clear if the litigation period has been excluded, while raising the demand of Rs.73,57,000/- by the respondents. Annexure P-47 is also silent regarding rate of interest at which the said dues were calculated. So, the said letter (Annexure P-47), being vague and uncertain, is liable to be cancelled.

Accordingly, this writ petition is allowed and letter (Annexure P-47) is quashed, with liberty to the respondents to issue fresh notice for recovery of dues of extension fees to the petitioner regarding Plot No.477-P, Sector 4,

Panchkula, giving year-wise detail of dues and the rate at which interest was claimed. Needless to say that, if eligible, the petitioner would also be entitled to avail the benefit of One Time Settlement Scheme of 2019, which has been launched on 06.03.2019 by the HUDA, with regard to deposit of dues including extension fees.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

19.02.2020

adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No