

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-14909-2016

Date of decision:28.04.2021

**Greater Mohali Area Development Authority,
PUDA Bhawan, Sector-62, S.A.S. Nagar
through its Estate Officer**

....Petitioner

V/s.

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. Shekhar Verma, Advocate for the petitioner.

Mr. Shireesh Gupta, Senior DAG, Punjab.

Mr. Ashish Aggarwal, Advocate for respondent No.3.

Ritu Bahri, J. (Oral).

The present writ petition has been filed by the Estate Officer, Greater Mohali Area Development Authority (hereinafter referred to as 'GMADA') for quashing of the order dated 24.12.2015 (Annexure P-11) passed by respondent No. 2-Revisional Authority-cum-Additional Secretary to the Government of Punjab, Department of Housing and Urban Development, Chandigarh.

A perusal of the impugned order dated 24.12.2015 (Annexure P-11) shows that respondent No. 3-Bachittar Kaur had applied for allotment of residential plot measuring 125 sq.yds. under reserve category in the Aerocity Scheme floated by GMADA. Respondent No. 3 was successful in draw of lots and letter of intent (in short 'LOI') was also issued to her. As per the condition No. 5 of the LOI, she had to deposit 15% of the total amount i.e. ₹2,25,000/- within 30 days from the issue of LOI. This amount

was not deposited within the stipulated time and the Estate officer forfeited the 10% and cancelled the LOI vide order dated 20.07.2012 (Annexure P-5). Against this order, she had filed an appeal before the Appellate Authority GMADA which was dismissed on 03.10.2012 (Annexure P-7). Thereafter, respondent No. 3 filed Revision Petition and vide order dated 14.07.2014 (Annexure P-9), the then Secretary to Govt. Punjab, Department of Housing and Urban Development, Punjab, Chandigarh also rejected the Revision Petition. Order dated 14.07.2014 (Annexure P-9) was challenged by way of filing **CWP-23196-2014** titled as ***Bachittar Kaur V/s. State of Punjab and others*** and this petition was disposed of on 08.09.2015 (Annexure P-10) by passing following order:-

“The so called explanation given by the petitioner and as available on record, surely does not make out it a case of circumstances where the Authority should be persuaded to condone the delay beyond 6 months. Nevertheless, we grant them liberty to approach the Special Secretary, Government of Punjab, Housing and Urban Development Department, and make out a case of strong and exceptional circumstances to seek condonation of delay beyond six months and/or to make out a case for the reduction of forfeited amount.”

The grievance of the petitioner is that after order dated 08.09.2015, opportunity of hearing was given and statement of allottee was recorded and after taking a liberal view, delay in depositing 15% of the total amount i.e. ₹2,25,000/- within 30 days from the issue of LOI was condoned and the plot was restored to the allottee-Bachittar Kaur vide order dated 24.12.2015 (Annexure P-11) which has now been challenged by the

petitioner/GMADA in the present writ petition.

On 28.07.2016, notice of motion as well as notice re: stay was issued. On 21.08.2019, learned counsel appearing for respondent No.3-Bachittar Kaur sought time to place on record additional affidavit. An affidavit of respondent No. 3 was filed on 26.11.2019 by way of CM-17970-CWP-2019 and in this affidavit, she had given details of the unfortunate instances. The LOI dated 21.03.2011 was issued by GMADA for depositing 15% of the total price of plot within a period of 30 days was received by respondent No. 3 in the 3rd week of April, 2011 and during this period her husband namely Ravinder Singh was bitten by stray dog and he got his treatment from Sector 16, Govt. Hospital, Chandigarh where the injury found on the person of Ravinder Singh was categorized as CAT-3. In this backdrop, she could not deposit the amount within 30 days as per LOI. She made representation on 19.04.2011 for granting some more time to pay the amount. Thereafter, she met with an accident on 05.05.2011 and suffered grievous injuries on her person. She approached the concerned authorities by sending several representations dated 08.02.2012, 29.02.2012, 06.03.2012 and 22.03.2012. Finally, she was served with a show cause notice dated 27.04.2012 to which respondent No. 3 filed a reply by giving all the details of her unfortunate instances. Vide order dated 20.07.2012, the Estate Officer cancelled allotment of letter of intent dated 21.03.2011 and forfeited the earnest money of ₹1,50,000/-. Respondent No. 3 was not aware about order dated 20.07.2012 and vide demand draft bearing number 300349 dated 28.07.2012 in the name of Estate Officer, GMADA made payment of ₹2,95,000/- (₹2,25,000/- being 15% of total price of plot + ₹70,000/- as interest amount over the due amount). An

appeal filed by respondent No. 3 against cancellation order dated 20.07.2012 was dismissed vide order dated 03.10.2012. Thereafter revision filed by her was also dismissed vide order dated 14.07.2014. These orders were challenged by respondent No. 3 in CWP-23196-2014 and while disposing of this petition on 08.09.2015, liberty was granted to respondent No. 3 to approach the Special Secretary, Government of Punjab, Housing and Urban Development Department to seek condonation of delay beyond six months. Vide order dated 24.12.2015, the authority while taking liberal view condoned the delay and letter of intent was restored again in the name of Bachittar Kaur-respondent No.3. Thereafter, she approached Estate Officer, GMADA to provide details of the pending amount alongwith interest and penalty by various representations but instead of providing details of the amount due, the present writ petition had been filed by the Estate Officer, GMADA for challenging order dated 24.12.2015. Respondent No. 3 had placed on record representations dated 07.01.2016, 22.01.2016, 25.01.2016, 02.02.2016, 23.02.2016 and 15.03.2016 as Annexure R-3/1 collectively and copy of the order dated 21.08.2019 passed in **CWP-10203-2017** titled as **Greater Mohali Area Development Authority V/s. Smt. Usha Viridi and another** as Annexure R-3/2. In **Usha Viridi's case (supra)**, similar order has been challenged by GMADA.

In para 9 of the affidavit, respondent No. 3 again reiterated payment of ₹2,95,000/- (₹2,25,000/- being 15% of total price of plot + ₹70,000/- as interest amount over the due amount).

The affidavit of respondent No. 3 alongwith Annexures R-3/1 and R-3/2 was placed on record by way of filing CM-17970-CWP-2019 which was allowed vide order dated 28.11.2019 with further direction to the

petitioner to intimate calculation of amount within a period of two weeks and respondent No. 3 was directed to deposit the same within a period of one week thereafter. On 09.01.2020, when the case was taken up, calculation sheet had been handed over to learned counsel for respondent No. 3 in Court. On 11.02.2021, CM-1823-CWP-2021 was allowed and intimation letter dated 08.01.2020 and copy of demand draft dated 13.01.2020 were taken on record as Annexure R-3/3 and R-3/4. A perusal of the letter dated 08.01.2020 (Annexure R-3/3) shows that the dues of plot upto 06.01.2020 regarding 95% amount are as under:-

1. Dues of installments	₹14,85,000/-
2. Penalty	₹15,08,378/-
Total	₹29,93,378/-

On 31.03.2021 when this case was taken up, it had been observed that respondent No. 3 had deposited the amount as per the letter dated 08.01.2020 (Annexure R-3/3) by way of demand draft dated 13.01.2020 (Annexure R-3/4) but still the plot had not been allotted to her and the case was adjourned to 19.04.2021 on the request of learned counsel for the petitioner to get instructions.

On 19.04.2021, when the case was taken up, additional affidavit of Paviter Singh, Estate Officer (Plots), Greater Mohali Area Development Authority, PUDA Bhawan, Sector 62, SAS Nagar (Mohali) dated 12.04.2021 was filed. It is stated therein that the case of respondent No. 3 is not at par with the case of **Usha Viridi**. In para 8, it is further stated that the plot which was allotted to respondent No. 3 was at the rate of ₹12,000/- per sq. yds. which was applicable in the year 2011 and the present market price of ECO City-II, Mullanpur is ₹25,000/- per sq. yds. and the

plot in question is situated in already developed area namely Aero City, SAS Nagar (Mohali) which would fetch more price in open auction. Further respondent No.3 had already applied for transfer of plot vide receipt No. 4360 of 2020 dated 27.02.2020 in favour of Gian Singh son of Sh. Sarwan Singh, resident of House No. 2154, Urban Estate, Phase-II, Patiala, Punjab. An attempt is being made by respondent No. 3 to get profit at the cost of public exchequer. Copy of receipt No. 4360 of 2020 dated 27.02.2020 alongwith application is annexed as Annexure P-12. Further, the judgment passed by this Court in **CWP-7706-2016** titled as ***Babu Ram V/s. State of Punjab and others***, decided on 07.02.2018 has been placed on record as Annexure P-13 in which 15% amount had not been deposited after the expiry of 30 days from the date of issue of letter of intent and there was a delay of one year and one month in depositing the same. The Division Bench observed that there was no reasonable explanation given by the petitioner in depositing 15% amount belatedly to condone the delay. In this backdrop, writ petition had been dismissed.

Learned counsel for the petitioner has finally argued that when the earlier CWP-23196-2014 had been disposed of on 08.09.2015 (Annexure P-10), bunch of the petitions had also been disposed of. Respondent No. 3 was granted opportunity to approach Special Secretary, Government of Punjab, Housing and Urban Development Department, to make out a strong and exceptional case for condoning the delay beyond six months. While passing impugned order dated 24.12.2015 (Annexure P-11), no exceptional circumstances had been recorded for restoration of plot in the name of respondent No.3.

At this stage, learned counsel for respondent No. 3 had argued

that after passing order dated 24.12.2015 (Annexure P-11), the respondent-authority had not disputed issuance of intimation letter dated 08.01.2020 (Annexure R-3/3) and acceptance of demand draft dated 13.01.2020 amounting to ₹29,93,378/-(Annexure R-3/4). Once the respondent-authority had accepted this amount, order dated 24.12.2015 (Annexure P-11) stands complied with. He further states that in the affidavit given by respondent No.3, she had specifically mentioned two instances i.e. her husband namely Ravinder Singh was bitten by stray dog and he got his treatment from Sector 16, Govt. Hospital, Chandigarh where the injury found on the person of Ravinder Singh was categorized as CAT-3 and thereafter, she met with an accident on 05.05.2011 and suffered grievous injuries on her person. These facts had not been denied by the respondent-authority in the affidavit filed by the Estate Officer, GMADA dated 12.04.2021. However, an attempt has been made to distinguish the case of the petitioner from ***Usha Viridi's case (supra)***.

Heard learned counsel for the parties.

The petitioner had challenged order dated 24.12.2015 (Annexure P-11) whereby the Additional Secretary, Government of Punjab, Housing and Urban Development Department, Government of Punjab, Chandigarh had set aside the cancellation of letter of intent with respect to residential plot measuring 125 sq. yds. by condoning the delay in depositing 15% of the tentative price of plot. A perusal of this order shows that the authority had taken the right decision in condoning the delay in depositing 15% of the tentative price of plot. Reference of ***Bachittar Kaur's case (supra)*** was also made whereby this Court had given opportunity to Bachittar Kaur to approach the authority again by making exceptional

circumstances for condoning delay in depositing 15% of the tentative price of the plot.

In the present case, as per the affidavit dated 12.04.2021 filed by the Estate Officer, GMADA, the main ground taken for setting aside the order dated 24.12.2015 passed by the Additional Secretary to Govt. of Punjab, Housing and Urban Development, Chandigarh, was that the price of the plot in question has gone very high. This itself could not be made a ground for setting aside order dated 24.12.2015. Further in the affidavit filed by respondent No. 3, she had specifically mentioned two instances i.e. her husband namely Ravinder Singh was bitten by stray dog and he got his treatment from Sector 16, Govt. Hospital, Chandigarh where the injury found on the person of Ravinder Singh was categorized as CAT-3 and thereafter, she met with an accident on 05.05.2011 and suffered grievous injuries on her person. This fact had also not been refuted in this affidavit. Further, the petitioner referred to the judgment passed in **CWP-7706-2016** titled as **Babu Ram V/s. State of Punjab and others**, decided on 07.02.2018 (Annexure P-13) in which 15% amount had not been deposited after the expiry of 30 days from the date of issue of letter of intent and there was a delay of one year and one month in depositing the same. The Division Bench observed that there was no reasonable explanation given by the petitioner in depositing 15% amount belatedly to condone the delay. In this backdrop, writ petition had been dismissed.

The judgment of **Babu Ram** and **Usha Viridi** are on separate set of facts. In **Usha Viridi's case (supra)**, the competent authority had condoned the delay in depositing 15% of the tentative price of the plot and re-allotted the plot. Even in the present case, it is the competent authority

i.e. the Additional Secretary, Housing and Urban Development, Government of Punjab, Chandigarh, condoned the delay and re-allotted the plot in favour of respondent No.3. After re-allotment of the plot and during the pendency of this writ petition, the competent authority (GMADA) had accepted the demand draft dated 13.01.2020 for an amount of ₹29,93,378/- (Annexure R-3/4).

Hence, no ground to interfere in the order dated 24.12.2015 (Annexure P-11) is made out as the competent authority exercised its power to condone the delay in exceptional circumstances and restore the plot. Further, order dated 24.12.2015 has been passed rightly as per the observation made by the Division Bench while disposing of **CWP-23196-2014** (Annexure P-10).

Writ petition is dismissed accordingly.

(RITU BAHRI)
JUDGE

28.04.2021
Divyanshi

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No