

109 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1031-2022 (O&M)

Date of Decision:17.11.2022.

Haryana Urban Development Authority

.....Appellant

Versus

Jitender Maggu and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Anil Chawla, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this application i.e. CM-2481-LPA-2022 is for condonation of delay 212 days in filing the appeal.

Perusal of the said application does not give any details with regard to the period spent in filing the appeal. There is no explanation worth consideration what to say of being justifiable for the delay in filing the appeal. The appeal on the ground of delay itself deserves to be dismissed. However, on merits also counsel for the appellant is unable to assail the order passed by the learned Single Judge as there is no illegality found by this Court in the said order. The writ petition which has been preferred by the appellant-Haryana Urban Development Authority was based upon the challenge to the order dated 08.05.2019 (Annexure P-7) passed by the Permanent Lok Adalat for Public Utility Services, Rohtak, wherein an amount of Rs.10,55,330/- after deduction of 10% of the earnest money as per the terms and conditions of allotment was directed to be refunded to

Respondent No.1 within a period of 45 days of the award passed by the Permanent

Lok Adalat for Public Utility Services, failing which 9% interest was to be paid by the appellant to the respondent till the realization of the payment from the date of the award. The said challenge had been dismissed on the ground that the facts clearly indicate that the applicant/appellant although was issued a letter of allotment on 09.08.2016 (Annexure P-4) which had never been received by respondent No.1. It is at a subsequent stage i.e. on 29.09.2016, he had approached the Office of Haryana Urban Development Authority and had collected the allotment letter personally. The relevant date as far as seeking of cancellation was 30 days from the date of such receipt of the allotment letter. It is also an admitted position that the request for cancellation of the allotment was moved by respondent No.1 on 24.09.2016, merely after four days of receipt of the allotment letter, which is well within 30 days which is permissible. The plea which has been put-forth by the appellant is that Clause 4 says the option has to be exercised within 30 days from the date of allotment letter.

Perusal of Clause 4 would show that it is from the date of receipt of the allotment letter or from the date of refusal of receipt of allotment letter, that the 30 days have to be counted.

In the present case it was admitted position that the allotment letter was never served upon respondent No.1 and the option which has been exercised by the said respondent No.1 is within a period of four days from the date of his collecting the allotment letter from the office of the appellant.

The fact itself leaves no manner of doubt that the entitlement was very much there to return the amount due after deducting 10% of the earnest money. The award as has been passed by the Permanent Lok Adalat for Public Utility Services being in accordance with law does not call for any interference and accordingly the learned Single Judge has proceeded to dismiss the writ

petition.

In the light of the above finding no merit in the present appeal, the same stands dismissed.

Since the appeal stands dismissed, no order is required to be passed in application for stay i.e. CM-2482-LPA-2022 and the same stands disposed of as infructuous.

(AUGUSTINE GEORGE MASIH)
JUDGE

17.11.2022
rekha sharma

(VIKRAM AGGARWAL)
JUDGE

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