

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-20032-2018

Date of decision : 01.05.2023

Malkit Singh

....Petitioner

VERSUS

State of Punjab and others

....Respondents

**CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Jagjot Singh, Advocate for
Mr. K.S. Lakhanpal, Advocate for the petitioner.

Mr. V.G. Jauhar, Addl. A.G., Punjab.

Mr. R.S. Khosla, Senior Advocate with
Ms. Bhavti Pujara, Advocate,
for respondents No.2 and 3.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for quashing of order dated 02.11.2013 (Annexure P-1) primarily on the plea that the respondents could deduct upto a maximum 10% of the amount deposited by him as per Clause 7 (viii) of allotment letter (Annexure P-2) and prior to deducting the maximum amount of 10% of the total amount deposited, no notice has been issued to him and a blanket order has been passed forfeiting an amount of 10% of the total amount deposited.

2. Counsel for the petitioner contends that since the principle of natural justice has not been followed, the impugned order dated 02.11.2013 (Annexure P-1) and the consequential order dated 06.12.2016 passed by the

Revisional Authority rejecting his claim cannot sustain. He contends that the basic principle of *audi alteram partem* having not been followed, the present writ petition deserves to be allowed.

3. Learned senior counsel for respondents No.2 and 3, with reference to the reply filed by respondents No.2 and 3, contends that notice has been issued to the petitioner under Sections 45 (1), (2) and (3) of the Punjab Regional and Town Planning and Development Act, 1995 and it is only thereafter, an amount of ₹2,00,000/- was deposited against the outstanding amount of ₹14,08,250/- as was due on 25.03.2012. Counsel further submits that even none of the installments was paid by the petitioner. He, on this basis, contends that the impugned order has been passed only after issuance of notice to the petitioner, therefore, deduction of 10% was fully justified. His further contention is that the amount deducted was within the permissible limit and therefore, nothing beyond the permissible amount has been forfeited apart from the aspect that there was no impediment for such deduction being made in law. He, therefore, contends that the present writ petition deserves to be dismissed.

4. Having considered the submissions made by the learned counsel for the parties and keeping in view the fact that there is no specific notice issued to the petitioner for forfeiture of 10% of the amount deposited, which fact could not be disputed by the learned senior counsel for respondents No.2 and 3, as notice under Section 45 served upon the petitioner was only to the limited extent of deposit of installment, failing which the cancellation of plot would follow, the principle of natural justice has not been followed.

5. Further, the case of the petitioner is covered in his favour by the

Division Bench judgments of this Court in CWP No.6690 of 2017, titled as ‘Ramesh Kumar and others Vs. State of Punjab and others’, decided on 20.12.2017 and CWP No.14247 of 2015, titled as ‘Suresh Kumar and another Vs. State of Punjab and others’, decided on 11.08.2016, where the respondents having forfeited the maximum amount permissible were required and mandated to issue proper notice in this regard, to which the petitioner was entitled to respond and it is only thereafter, such an order of forfeiture could have been passed and that too after assigning reasons.

6. In the light of the above, impugned order dated 02.11.2013 (Annexure P-1) and consequential order dated 06.12.2016 passed by the Revisional Authority, therefore, are set aside. It would be open to the respondents to issue notice to the petitioner for forfeiture of the 10% amount of the total deposited amount within a period of three weeks from today. In case of failure to do so, the 10% amount as forfeited by the initial order dated 02.11.2013 (Annexure P-1) shall be refunded to the petitioner with interest @ 6% per annum. It goes without saying that after issuing notice and following the principle of natural justice, it would be open to the respondents to proceed in accordance with law.

(AUGUSTINE GEORGE MASIH)
JUDGE

01.05.2023
Harish

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No