

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

CWP-17517-2023

DATE OF DECISION: 11.08.2023

SWARAN SINGH

.....PETITIONER

Vs.

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Saurabh Dalal, Advocate, and
Mr. Dev Kaushik, Advocate, for the petitioner.

Mr. Arun Beniwal, D.A.G., Haryana,

Mr. Deepak Sabherwal, Advocate,
for respondents No. 2 to 4-HSVP.

G.S.SANDHAWALIA, J. (ORAL)

1. This petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of '*mandamus*' quashing the order dated 18.12.2014 (Annexure P-10), passed by the Estate Officer, Bahadurgarh (respondent No. 4), whereby the plot in question has been ordered to be resumed, as also the order dated 15.03.2016 (Annexure P-13), whereby the petitioner was refunded a sum of ₹6,25,020/-, vide a cheque bearing No. 376141, dated 03.03.2006 and the original stamp certificates for the purpose of the conveyance deed for ₹18,500/-, were also sent back to him.

2. The reasons as such prevailed with the Estate Officer, HUDA, (respondent No. 4), that there is a resumption order, dated 18.12.2014 (Annexure P-10) due to the non-payment of the 15% amount within the

prescribed time period. The appeal for restoration had also been dismissed on 30.07.2015 (Annexure P-12).

3. The said order apparently was subject matter of challenge on an earlier occasion before this Court in CWP-10784-2016, which was dismissed on 27.05.2016 (Annexure P-14), on account of the fact that the petitioner had already filed an appeal against the order of resumption. The order reads as under:-

“The petitioner has already filed an appeal against the order of resumption. There is no warrant for interfering in this writ petition.

The petition is accordingly dismissed.”

4. Learned counsel for the petitioner has brought to our notice that the appeal as such was held to be not maintainable, vide communication dated 06.11.2018 (Annexure P-15). The same reads as under:-

“Sub: Reply of appeal under Section 17 (5) of HUDA Act, 1977, Plot No. 2970, Sector 9-9A, Bahadurgarh.

This is with reference to your office memo No. 6192, dated 25.12.2016 on the subject cited above.

The case has been examined by the legal cell and observed that the present appeal is not maintainable, as no appeal lies against the order of cancellation of offer of allotment of plot due to non-deposit of 15% initial amount within the stipulated period of 30 days as per policy guidelines.

You are requested to inform the applicant accordingly and send action taken report immediately.”

5. Thus, the petitioner is before this Court again. The action of

the respondents in returning the appeal is in consonance with the law laid down by the Hon'ble Supreme Court in **Chaman Lal Singhal vs. Haryana Urban Development Authority and others** 2009 (4) SCC 369, wherein it was held that if the allottee does not deposit the initial amount of 25%, the allotment can be cancelled as stipulated in Clause 5 of the allotment letter and even there has to be no compliance to the principle of natural of justice. Paragraph 15 of the said judgment reads as under:-

“In our considered opinion the appellant failed to comply with the aforesaid clauses of the letter of allotment and, therefore, his allotment stood cancelled and the earnest money deposited by him could be forfeited by the Authority. The order of cancellation came to be passed by the competent authority after 500 days. Be that as it may, the aforesaid allotment of plot of land in favour of the appellant came to be cancelled because of non-payment of the amount as stipulated in clause 5 and, therefore, the earnest money deposited by him could be forfeited by the Authority. Since the case of the appellant comes within the ambit of clauses 4 and 5 of the allotment letter, the provisions of Section 17 of the Act would have no application and would not apply. It is thus established that there was no agreement/contract between the appellant and the respondent-Authority and there being no such agreement/contract and because of non-compliance of requirement of clause 5 the issue with regard to violation of principles of natural justice also would not arise. Therefore, the contentions that provisions of Section 17 of the Act are violated and that there is non compliance of the principles of natural justice have no merit.”

6. In the case of petitioner, the allotment letter is dated 22.08.2000 (Annexure P-1) regarding the Plot No. 2970, Sector 9/9-A in Ferozepur and Clause 4 thereof reads as under:-

“In case you refuse to accept this allotment, you shall communicate your refusal by a registered letter within 30 days from the date of allotment letter, failing which this allotment shall stand cancelled and the earnest money deposited by you shall be forfeited to the authority & you shall have no claim for damages.”

7. The order of resumption dated 18.12.2014 (Annexure P-10) would go on to show that the plot was resumed and a sum of ₹26,117/- was forfeited on account of non-deposit of the 15% amount within the stipulated period. The appeal apparently was held to be non-maintainable, in view of the law laid down by the Hon'ble Supreme Court in **Chaman Lal Singhal's** case (*supra*). The appellant chose not to challenge the said order returning his appeal on 06.11.2018 (Annexure P-15) for the last 5 years.
8. In such circumstances, we are of the considered opinion that at this belated stage, the present petition would be hit by the principles of delay and laches and therefore, we do not find that it is a fit case where we would exercise our extra-ordinary power of writ jurisdiction, in such circumstances.
9. Consequently, the petition is dismissed, in *limine*.

(G.S. SANDHAWALIA)
JUDGE

August 11, 2023
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No