

CWP No. 21192 of 2022
CWP No. 3104 of 2017

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2023:PHHC:135132-DB

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No. 21192 of 2022
CWP No. 3104 of 2017
Date of Decision:16.10.2023

(1) CWP No. 21192 of 2022

SUDHA ANAND

... Petitioner

Versus

PUDA AND OTHERS

... Respondents

(2) CWP No. 3104 of 2017

SUDHA ANAND

... Petitioner

Versus

PUDA AND OTHERS

... Respondents

**CORAM:- HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MR. JUSTICE SANJIV BERRY**

Present:- Mr.D.K. Prajapati, Advocate (Legal Aid Counsel)
for the petitioner.

Mr. Aman Sharma, Advocate for PUDA.

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SANJIV BERRY, J.

The present judgment shall dispose of both the writ petitions, preferred by the petitioner on the same subject i.e for the resumption of the Flat No. 4556, Ground Gloor, MIG Super Sector 70, Mohali. The facts have been taken from CWP-21192-2022, Sudha Anand Vs. PUDA and Others.

2. The prayer in the present writ petitions filed under Articles 226 and 227 of the Constitution of India for directing the respondents to look

into the request dated 15.06.2021 (Annexure P-2) dated 18.06.2021 (Annexure P-3) whereby the petitioner requested to consider her case as a special case under the Amnesty Scheme, 2021 launched by the Department of Housing & Urban Development, Government of Punjab.

3. Briefly stated the petitioner was allotted PUDA Flat No. 4556 Ground Floor MIG Super Sector 70, Mohali through draw as per allotment letter dated 11.08.1998 at a total price of ₹8,05,400/- out of which ₹1,50,000/- were paid to the respondents before the possession of the Flat and the remaining amount was to be paid by 156 installments. After taking possession of the flat, the petitioner spent an amount of ₹2,00,000/- to cover up number of deficiencies in the construction of the flat. However, due to multiple complaints filed by the petitioner stating the deficiencies in construction of the flat, the respondents refused to accept the remaining installments and resumed the Flat in 2003 and forfeited 10% of the amount paid by the petitioner. Thereafter, the petitioner served legal notice dated 30.12.2003 through her counsel to the PUDA Authorities but no reply was given. In 2008, the petitioner preferred an appeal before the Additional Chief Administrator PUDA which was dismissed in the year 2012 imposing penal interest of more than ₹13,00,000/- and demand of ₹32,00,000/- was raised. However, the revisional authority adjusted ₹1,50,000/- in 2008 for lapses in construction, whereas as per law, it should be adjusted in the year 1998 or in 2000. Subsequently, the petitioner approached the District Consumer Forum, Chandigarh for redressal of her grievance but the same was dismissed vide order dated 06.11.2007 and further appeal filed before the

State Consumer Disputes Redressal Commission, U.T. Chandigarh was also dismissed vide order dated 08.04.2008. Petitioner approached the National Consumer Redressal Commission, New Delhi, vide order dated 25.05.2010 her revision petition was also dismissed. The petitioner also approached the Permanent Lok Adalat (Public Utility Services) SAS Nagar, Mohali but there also the petition of the petitioner was dismissed vide order dated 13.10.2016. Aggrieved of the same petitioner had filed Civil Writ Petition No. 3104 of 2017.

4. In the meantime, the respondents launched “Amnesty Scheme”2021 (Annexure P-1) to clear the outstanding amounts due to the allottees whose allotment has been cancelled due to default in the installments or pending litigation. The petitioner in order to settle the matter approached the respondents vide letters dated 15.06.2021 and 18.06.2021 (Annexure P-2 and P-3 respectively). In response thereto, respondents vide letter dated 24.09.2021 (Annexure P-4) stating therein that the case of the petitioner cannot be covered under the Amnesty Scheme, 2021 but can be considered, if the petitioner files an affidavit to withdraw all the pending litigation and deposits the entire outstanding amount. Subsequently, the petitioner filed an affidavit along with letter dated 01.10.2021 (Annexure P-5) and thereafter a reminder letter dated 09.05.2022 (Annexure P-6) undertaking to comply with the aforesaid conditions. However, the respondents rejected the request of the petitioner vide letter dated 27.07.2022 (Annexure P-7) stating that Civil Writ Petition No. 3104 of 2017 titled as Sudha Anand Vs. Punjab Urban Development Authority (PUDA) is pending before the High Court

and hence the present writ petition.

5. It is vehemently contended by learned counsel for the petitioner that the petitioner aged about 78 years, is a senior citizen and has been running from pillar to post for last 24 years for her Flat in question as she has no other accommodation or source of income and even her husband passed away on 15.08.2021. He further contends that the State have constitutional duty to provide shelter to make the right to life meaningful which is enshrined under Articles 19(1) (g) read with Article 19(1)(e) and 21 of the Constitution of India. It is also contended that the case of the petitioner is covered under the “Amnesty Scheme” 2021 and the respondents illegally rejected the request of the petitioner vide letter dated 27.07.2022 (Annexure P-7). The petitioner has already deposited an amount of ₹17,68,370/- with the respondents and is ready to deposit the entire outstanding amount as required under the “Amnesty Scheme” 2021 and prayed for acceptance of the writ petitions.

6. Per contra, learned counsel appearing on behalf of the respondents contends that in view of the order dated 27.11.2003 (Annexure R-3) passed by Estate Office PUDA, Mohali as well as the conditional order dated 21.07.2015 (Annexure R-5) passed by the Special Secretary, Housing & Urban Development Department, Government of Punjab-Cum-Revisional Authority, the allotment of flat was cancelled as the petitioner failed to deposit all the outstanding dues and it was restored subject to depositing the outstanding amount within 30 days. Further it is contended by the learned counsel for the respondents that the Amnesty Scheme, 2021 is

applicable to the allottees who have defaulted in payment of installments after 31.12.2013 and the allotment in favour of the petitioner had been cancelled on 27.11.2003, therefore, the petitioner cannot be considered under the Amnesty Scheme and prayed for dismissal of the writ petitions.

7. We have heard learned counsel for the parties at length and also perused the record with their assistance.

8. The learned legal aid counsel for the petitioner argued that after the launch of the Amnesty Scheme, 2021 petitioner submitted request letters dated 15.06.2021 and 18.06.2021 (Annexure P-2 and P-3) respectively and in response thereto vide letter dated 24.09.2021 (Annexure P-4) petitioner was asked to file an affidavit to the effect that she will withdraw all the cases from all the Courts and will deposit the entire outstanding amount which is pending against the petitioner. Therefore, the petitioner submitted letter along with an affidavit dated 01.10.2021 (Annexure P-5) as well as reminder letter dated 09.05.2022 (Annexure P-6) giving an undertaking to withdraw all the cases from all the Courts and to deposit the entire outstanding amount which is pending against the petitioner. However, the request of the petitioner was rejected vide letter dated 27.07.2022 (Annexure P-7) on the ground of pending civil writ petition.

9. In our opinion, the stand taken by the respondents is contradictory that the Amnesty Scheme, 2021 is applicable to the allottees who have defaulted in payment of installments after 31.12.2013 and the allotment in favour of the petitioner was cancelled on 27.11.2003. While the respondent vide letter dated 24.09.2021 (Annexure P-4) asked the petitioner

that her case cannot be covered under the Amnesty Scheme, 2021 but can be considered, if the petitioner files an affidavit to withdraw all the pending litigation and deposit the entire outstanding amount. In response thereto, petitioner had filed the affidavit dated 01.10.2021(Annexure P-5), however her case was subsequently rejected vide letter dated 27.07.2022 (Annexure P-7).

10. So far as the Amnesty Scheme, 2021 launched by the respondents is concerned that has been placed on record as (Annexure P-1). A bare perusal thereof, reveals that the following persons are eligible to avail the benefits of the Amnesty Scheme, 2021:-

“ WHO IS ELIGIBLE

- *Allottees who have defaulted in payment of installments due after 31.12.2013.*
- *Allottees whose allotment has been cancelled due to default in installments or there is litigation on this account can also avail the benefit under the scheme.”*

11. Although, the case of petitioner has been considered under the purview of eligibility criteria i.e. *“Allottees who have defaulted in payment of installments due after 31.12.2013”* and that the case of petitioner is not covered by the same as her allotment was cancelled prior to it i.e. 27.11.2003. However, the respondents overlooked the second criteria of eligibility which applies to the *“Allottees whose allotment has been cancelled due to default in installments or there is litigation on this account can also avail the benefit under the scheme.”* The case of the petitioner falls within the purview of second eligibility condition laid down in the said Amnesty Scheme, 2021 (Annexure P-1) because apparently there has been several litigation's pending in various forums. This fact, although not

disputed by the respondents has also been categorically noticed in the order dated 13.10.2016 (Annexure R-9) passed by Permanent Lok Adalat (Public Utility Services), S.A.S. Nagar, Mohali. The petitioner who is also present in person has shown her readiness and willingness to pay the entire outstanding dues to the respondents for full and final settlement of the dispute. Therefore, we are of the view that the case of petitioner is squarely covered within the ambit of Amnesty Scheme, 2021 (Annexure P-1).

12. Consequently, in the light of the above discussion, finding merit in the petitions the same are hereby allowed and order dated 27.07.2022 (Annexure P-7) passed by respondent No.2 rejecting the case of the petitioner under the Amnesty Scheme, 2021 is hereby set aside. The petitioner is directed to deposit sum of ₹15,00,000/- within a period of four weeks from the date of receipt of certified copy of order and on doing so, respondents are directed to issue 'No Due Certificate' and also execute the Conveyance Deed of flat in question in favour of the petitioner in accordance with the Amnesty Scheme, 2021 (Annexure P-1).

13. The writ petitions stand allowed accordingly in the above terms.

14. CM application(s) pending, if any, also stand disposed of.

(G.S.SANDHAWALIA)
JUDGE

(SANJIV BERRY)
JUDGE

16.10.2023

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i)	Whether speaking/reasoned?	Yes
ii)	Whether reportable?	No