

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.3427 of 2021 (O&M)

Date of Decision :09.01.2024

Jawahar Lal

.....Petitioner

Versus

Union Territory Chandigarh and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI, JUDGE
HON'BLE MR.JUSTICE VIKRAM AGGARWAL, JUDGE

Present : Mr. Sudesh K. Khurcha, Advocate for the petitioner.

Mr. Rahul Vohra, Advocate for
Mr. Aditya Jain, Advocate for respondents No.1 and 2.

Mr. Rakesh Sobti, Advocate for respondent No.3.

ARUN PALLI, J. (Oral):

The petitioner herein has prayed for the following substantive relief:-

“Petition under Article 226,227 of the Constitution of India for issuance of writ for giving the direction to the respondents to hand over the possession of the dwelling unit no. 202/3 in Maloya UT Chandigarh which was allotted by the respondents vide allotment letter dated 28.02.2020 (Annexure P-1).”

Learned counsel for the petitioner submits that he along with his wife (Sanju) had applied for allotment of a flat on licence basis under the Chandigarh Small Flats Scheme 2006. Having been found eligible/entitled thereto vide communication dated 28.02.2019, dwelling unit No.202/3 in Maloya, UT Chandigarh was allotted in their favour on licence basis for a period of 20 years. Subsequently, possession letter dated 28.02.2019

(Annexure P-2) was also issued in favour of the petitioner and Smt. Sanju daughter of Sh. Kharbhan Singh. However, he submits that the limited grievance that the petitioner has is: that despite having been allotted the flat, he has not yet been delivered the actual physical possession thereof. He submits the difficulty that is being expressed by the Administration is that the flat having been allotted jointly to the petitioner and his wife (Sanju), unless they both are present to receive possession, the Administration cannot deliver possession to the petitioner individually. He submits that the petitioner has even served the Administration with a representation dated 27.08.2020, but to no avail.

The stand set out in written statement, filed on behalf of respondent No.3, is that the petitioner and his wife (Sanju) were jointly allotted the dwelling unit No.202/3 in Maloya UT Chandigarh. And post allotment, the petitioner alone approached the authority to obtain physical possession of the dwelling unit, whereas his wife (Sanju) too was/is a co-allottee. And in her absence the physical possession of the said flat could not be delivered.

Learned counsel for the petitioner submits that in fact as his wife (Sanju) has left the matrimonial home years ago. And her whereabouts are unknown. Thus, it shall not be viable for the petitioner to ensure her physical presence to facilitate the process of delivery of possession. And, in the given circumstances, the interest of the petitioner continues to suffer despite allotment.

To this, learned counsel for respondents No.1 and 2 submits that in terms of clause 8 (e) of the policy/notification dated 09.11.2009, in the

event of any alteration/change in the composition of the family the same is required to be intimated to the competent authority in the prescribed format. And, in case, the petitioner moves a specific application/representation as regards the change in circumstances, he is faced with, the competent authority shall take cognizance of the said request and deal therewith and pass necessary orders in accordance with law.

Learned counsel for the petitioner is agreeable to the course suggested by learned counsel for respondents No.1 and 2. However, he submits that as the matter is pending for a considerable time, it would be expedient, if the respondents-authority are directed to dispose of the matter finally, post receipt of his representation/application, within a specified time.

To this, learned counsel for the respondents-authority submits that if the petitioner moves the necessary application, as indicated above, within a period of four weeks from today, to the competent authority-UT Estate Officer, he shall decide the same within a period of one month from the receipt of the said application, after affording an opportunity of hearing to the petitioner. And shall pass the necessary orders in accordance with law.

In the wake of the position as sketched out above and in terms of the statement made by learned counsel for the parties, the petition is accordingly disposed of.

This Court is sanguine that in case the petitioner moves any such application/representation, as referred to above, the competent authority shall examine the matter in the right earnest and pass necessary orders thereon.

Needless to assert that this order shall not constitute an expression of opinion on the merits of the case of either party, for, as indicated above, the authority shall examine the grievance of the petitioner, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

09.01.2024
Manoj Bhutani

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