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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21390-2024 (O/M)

Date of decision : 04.09.2024

Anup Kaur

..... Petitioner

Versus

State Information Commission through its Commissioner,
Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Mukul Gupta, Advocate
for the petitioner.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Anup Kaur) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of mandamus for directing respondent No. 2 (Municipal Corporation, Faridabad) to decide the representations dated 04.01.2006 (Annexure P-3), 29.03.2007 (Annexure P-4) and 31.01.2019 (Annexure P-5); with a further prayer for directing respondent No. 2 to refund the excess amount, deposited by the petitioner, during the allotment of residential plot on 26.07.1994.

1.1 A further prayer has been made by the petitioner for setting aside the order dated 23.06.2022, with a further prayer to direct respondent No. 1 (State Information Commission) to restart penal proceedings against respondent No. 2.

2. Briefly, the petitioner (Anup Kaur) was allotted residential Plot No. 1837, Sector 23, Faridabad, measuring 100 sq. yds., vide allotment letter dated 26.07.1994 (Annexure P-1). Petitioner claims that

she deposited the entire amount for the said plot in installments with respondent No. 2-Municipal Corporation. According to petitioner, she was not allotted the promised 100 sq. yds. plot, rather only an area of 95 sq. yds. was allotted, vide possession certificate dated 13.12.2005 (Annexure P-2).

2.1 It appears that the petitioner submitted various representations dated 15.12.2005, 29.03.2007 and 02.02.2019 to respondent No. 2-Municipal Corporation, requesting refund of the excess amount paid by the petitioner on account of 5 sq. yds., which was not allotted to the petitioner.

2.2 It is the case of petitioner that despite numerous representations, respondent No. 2 failed to address the wrongful loss caused to the petitioner. It transpires that the petitioner sought information under Right to Information Act, 2005 (in short '2005 Act') regarding the status/action taken on her representations dated 15.12.2005, 29.03.2007 and 02.02.2019, however, no response was received. Thereafter, the petitioner preferred an appeal under Section 19 (1) of 2005 Act, wherein the appellate authority asked the concerned person to submit reply. It appears that the petitioner received a letter from the Municipal Corporation stating that her application could not be considered as she was no longer the owner of the plot as the same had been transferred.

2.3 Thereafter, the petitioner appears to have filed second appeal under 2005 Act; whereupon she received a letter dated 29.07.2019 (Annexure P-10) from Municipal Corporation, stating that the excess amount received for the lesser area, had been adjusted towards extension fee in 2006.

2.4 It is borne out from the pleadings of the petitioner that the State Information Commission, vide order dated 08.09.2020 (Annexure P-11), called upon the petitioner to file a rejoinder within a week of receipt of the said order indicating how and on which point the furnished information was incomplete and incorrect with a further instruction to SPIO in the office of Municipal Corporation to file response within ten days of the receipt of the rejoinder.

2.5 Petitioner claims that she complied with the aforesaid order dated 08.09.2020, however, respondent No. 2 failed to comply with the said order, whereupon the office of respondent No. 1 (State Information Commission), vide letter dated 04.12.2020 (Annexure P-13), called upon respondent No. 2 to provide information to the petitioner within fifteen days, else penal action will be taken. It is stated that a similar letter dated 25.02.2021 (Annexure P-16) was again issued by respondent No. 1, however, no information was provided by respondent No. 2 and the petitioner was constrained to submit further representations. It is further stated that the petitioner received an order dated 23.06.2022, vide letter dated 28.07.2022 (Annexure P-21 Colly.), informing her that a decision has been taken to drop the proceedings against respondent No. 2. Thereafter, the petitioner is stated to have submitted another representation dated 11.10.2022 with a prayer that the order dated 23.06.2022 be withdrawn, however, no action was taken.

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition for the relief(s), as noticed above.

4. Heard.

5. In the present case, the petitioner was allotted a 100 sq. yds,

dated 26.07.1994. It appears that while delivering possession, an area of 95 sq. yds. was handed over to the petitioner, vide possession certificate dated 13.12.2005, whereupon the petitioner had submitted various representations seeking refund of the excess amount paid on account of 5 sq. yds., which had not been delivered to the petitioner. It is not disputed before this Court that the petitioner had already transferred the area allotted to her and apart from submitting representations to the Municipal Authorities, no further action was taken by the petitioner to enforce her claim for refund of excess amount paid by her. The stand taken by the municipal authorities is that the excess amount received for the lesser area had been adjusted towards extension fee in the year 2006.

6. In my considered view, in the attending circumstances, the petitioner should have availed her legal remedies to enforce her claim for refund of excess amount paid by her within a reasonable period of time from the date of possession certificate dated 13.12.2005 (Annexure P-2), when she was handed over the possession of the allotted plot. Since the petitioner failed to enforce her legal right before the court of competent jurisdiction, within the specified/reasonable time frame, accordingly, the claim for refund of excess amount (as on date) is clearly barred by delay and laches.

7. That apart, it appears that the petitioner has already transferred her plot in favour of third party and despite that she has been pursuing her litigation before the authorities under the Right to Information Act, where the proceedings were finally dropped, vide order dated 23.06.2022, received through letter dated 28.07.2022 (Annexure P-21 Colly.). In the given facts and circumstances, the

officials of Municipal Corporation appears to be unjustified and for some oblique motive.

8. Keeping in view the above discussion, I do not find any merit in the instant civil writ petition and the same is accordingly dismissed.

9. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

04.09.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No